

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59558; File No. SR-FICC-2009-04]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Add Debt Securities That Are Issued Under the Debt Guarantee Program Component of the Federal Deposit Insurance Corporation's Temporary Liquidity Guarantee Program to the GCF Repo Service

March 11, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ notice is hereby given that on February 25, 2009, the Fixed Income Clearing Corporation (“FICC”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change described in Items I, II, and III below, which items have been prepared primarily by FICC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

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

The purpose of the proposed rule change is to add debt securities that are issued under the Debt Guarantee Program component of the Federal Deposit Insurance Corporation’s (“FDIC’s”) Temporary Liquidity Guarantee Program (“TLGP”) to FICC’s GCF Repo service.²

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

In its filing with the Commission, FICC 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. FICC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.³

¹ 15 U.S.C. 78s(b)(1).

² This filing pertains only to the GCF Repo service and does not propose to add the FDIC-guaranteed securities to the GSD’s Delivery Versus Payment (“DVP”) service.

³ The Commission has modified the text of the summaries prepared by FICC.

(A) Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The GCF Repo service allows Government Securities Division (“GSD”) dealer members to trade general collateral repurchase agreements (“repos”) throughout the day without requiring intraday, trade-for-trade settlement on a DVP basis. The service allows the dealers to trade such general collateral repos, based on rate and term, throughout the day with interdealer broker netting members on a blind basis. Standardized, generic CUSIP numbers have been established exclusively for GCF Repo processing and are used to specify the acceptable type of underlying eligible collateral.

FICC is proposing to add an additional collateral type to the GCF Repo service. Specifically, FICC proposes to add debt securities that are issued under the Debt Guarantee Program component of FDIC’s TLGP to the GCF Repo service. These securities are DTC-eligible securities.⁴

The TLGP, one of the steps taken by the U.S. Government to stabilize the credit markets and to stimulate lending, was designed to allow banks to issue FDIC-insured debt to ensure that the banks would be able to roll over any debt coming due in the coming months. The guarantee consists of timely payment of principal and interest. The expiration of the FDIC’s guarantee is the earlier of either the maturity date of the issued debt or June 2012.

The Financial Industry Regulatory Authority (“FINRA”) has recently advised the Securities Industry and Financial Markets Association (“SIFMA”) on the capital charge treatment that FINRA plans to employ with respect to the guaranteed debt securities that are issued by an affiliate of a broker-dealer and that are held in inventory by the broker-dealer. Specifically, FINRA has stated that broker-dealers that may be allocated the FDIC-guaranteed debt securities issued by affiliated entities as part of the GCF Repo service will not need to take a 100 percent capital charge on the reverse repo contract because they have no control over the collateral allocated by FICC and because the allocated collateral is returned the next morning. Given this favorable treatment, members of SIFMA that are active in the GCF

⁴ The present rule filing applies only to these specific FDIC-insured securities. In the future, if FICC determines to add additional DTC-eligible securities to the GCF Repo service, FICC would submit a proposed rule change filing to the Commission for this purpose.

Repo service have requested that FICC add the FDIC-guaranteed debt securities to the service.

All current GCF Repo processing will remain unchanged. The fact that the product is a DTC-eligible security will not affect GCF Repo processing.⁵ FICC has determined that with respect to its risk management processes, the FDIC-insured securities will be treated the same as all other GCF Repo-eligible collateral.

FICC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act⁶ and the rules and regulations thereunder applicable to FICC because the proposed rule change enables FICC to expand an important service that provides members with a continuing ability to engage in general collateral trading activity in a safe and efficient manner. As such, the proposed rule filing facilitates the prompt and accurate clearance and settlement of securities transactions.

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

FICC does not believe that the proposed rule change will have any impact on 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

No written comments relating to the proposed rule change have been solicited or received. FICC will notify the Commission of any written comments received by FICC.

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

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A)(iii) of the Act⁷ and Rule 19b-4(f)(4)⁸ thereunder because the proposed rule change effects a change in an existing service of FICC that (i) does not adversely affect the safeguarding of securities or funds in the custody or control of FICC or for which it is responsible and (ii) does not

⁵ Specifically, if a GCF Repo participant engages in a trade using the new GCF Repo CUSIP, the participant will need to pledge the security free of payment to its clearing bank using the mechanism available at DTC. Once the security is pledged to the dealer’s clearing bank, it is available for tri-party or GCF Repo processing. No additional processing is being introduced to the GCF Repo service by this rule filing. The present filing does not require a change to the text of the rules of GSD.

⁶ 15 U.S.C. 78q-1.

⁷ 15 U.S.C. 78s(b)(3)(A)(iii).

⁸ 17 CFR 240.19b-4(f)(4).

significantly affect the respective rights of the clearing agency or persons using the service. At any time within sixty days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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 e-mail to rule-comments@sec.gov. Please include File Number SR-FICC-2009-04 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR-FICC-2009-04. 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 changes 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, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filings also will be available for inspection and copying at the principal office of FICC and on FICC's Web site at http://www.dtcc.com/legal/rule_filings/ficc/2009.php. 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-2009-04 and should be submitted on or before April 7, 2009.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.⁹

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9-5687 Filed 3-16-09; 8:45 am]

BILLING CODE 8011-01-P

site at <http://nasdaq.cchwallstreet.com>, at Nasdaq's principal office, 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, Nasdaq included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified in Item III below, and is set forth in Sections A, B, and C below.

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

1. Purpose

Nasdaq proposes to adopt new rules that make clear Nasdaq members' responsibility to input accurate quotation and order information into the Nasdaq Market Center and Nasdaq Options Market (collectively the "Nasdaq Markets"). The Nasdaq Markets require entry of certain information to post a quote or to enter an order. Such information, among other things, identifies the member, the size and price of the order or quote, and the member's capacity in placing an order. Accurate trade and quote information is fundamental to the operation of an efficient and fair market. Moreover, the information input by members when posting a quote or placing an order is used for purposes of policing the Nasdaq Markets. For example, the Financial Industry Regulatory Authority, Inc. ("FINRA") conducts trade abuse surveillances of the Nasdaq Markets on Nasdaq's behalf. The trade abuse surveillances use capacity information input by members. A member's capacity in a trade concerns whether the member is acting as an agent, principal, or "riskless" principal in the transaction. Accordingly, accurate input of capacity information is of fundamental regulatory importance.

Nasdaq does not have a rule that makes an explicit statement regarding a member's obligation to input accurate information into the Nasdaq Markets. Notwithstanding, Nasdaq believes that disciplinary cases against members entering inaccurate or incomplete information may be brought appropriately under Nasdaq Rule 2110, which requires members to observe high standards of commercial honor and just and equitable principles of trade. Rule 2110 protects the investing public and the securities industry from dishonest

⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6).