

*Extension:*

Rule 425; OMB Control No. 3235-0521;  
SEC File No. 270-462.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget the request for extension of the previously approved collection of information discussed below.

Rule 425 (17 CFR 230.425) under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) requires the filing of certain prospectuses and communications under Rule 135 (17 CFR 230.135) and Rule 165 (17 CFR 230.165) in connection with business combination transactions. The purpose of the rule is to permit more oral and written communications with shareholders about tender offers, mergers and other business combination transactions on a more timely basis, so long as the written communications are filed on the date of first use. The information provided under Rule 425 is made available to the public upon request. Also, the information provided under Rule 425 is mandatory. Approximately 1,680 issuers file communications under Rule 425 at an estimated 0.25 hours per response for a total of 420 annual burden hours.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or send an e-mail to: [Shagufta\\_Ahmed@omb.eop.gov](mailto:Shagufta_Ahmed@omb.eop.gov); and (ii) Jeffrey Heslop, Acting Director/CIO, Office of Information Technology, Securities and Exchange Commission, C/O Remi Pavlik-Simon, 6432 General Green Way, Alexandria, Virginia 22312; or send e-mail to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov). Comments must be submitted to OMB within 30 days of this notice.

**Florence E. Harmon,**

*Deputy Secretary.*

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**BILLING CODE P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-63038; File No. SR-FICC-2010-04]

### Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Approving Proposed Rule Change to Provide Clarity With Respect to the Close Out Netting of the Government Securities Division in the Event of the Fixed Income Clearing Corporation's Default or Insolvency

October 5, 2010.

#### I. Introduction

On August 12, 2010, the Fixed Income Clearing Corporation ("FICC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change SR-FICC-2010-04 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").<sup>1</sup> The proposed rule change was published for comment in the **Federal Register** on August 31, 2010.<sup>2</sup> No comment letters were received on the proposal. This order approves the proposal.

#### II. Description

FICC is proposing to add a provision to the rules of the Government Securities Division ("GSD") to make explicit the close out netting that would be applied to obligations between FICC and its members in the event that FICC becomes insolvent or defaults in its obligations to its members.<sup>3</sup>

FICC has been asked by some of its dealer members to add a provision to the rules of GSD to make explicit the close out netting of obligations between FICC and its members in the event that FICC becomes insolvent or defaults in its obligations to its members. Such members have stated that such a provision would provide clarity in their application of balance sheet netting to their transactions at FICC under U.S. GAAP in accordance with the criteria specified in the Financial Accounting Standards Board's Interpretation No. 39, *Offsetting of Amounts Related to Certain Contracts* (FIN 39). The members have stated further that a close out provision would allow them to comply with Basel Accord Standards relating to netting. Specifically, firms are able to calculate their capital requirements on the basis of their net credit exposure where they have legally

enforceable netting arrangements with their counterparties, which includes a close out netting provision in the event of the default of a counterparty (in this case, the division of FICC acting as a CCP).

#### III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act<sup>4</sup> and the rules and regulations thereunder applicable to FICC.<sup>5</sup> In particular, the Commission believes that by adding a close out provision to its rules, FICC is providing its members with clarity with respect to close out netting that would be applied to obligations of FICC and its members in the event of an FICC insolvency or default and in the calculation of their capital requirements with respect to their net credit exposure where members have legally enforceable netting arrangements with their counterparties. The proposal is therefore consistent with the requirements of Section 17A(b)(3)(F),<sup>6</sup> which requires, among other things, that the rules of a clearing agency are designed to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions.

#### IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act<sup>7</sup> and the rules and regulations thereunder.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>8</sup> that the proposed rule change (File No. SR-FICC-2010-04) be, and hereby is, approved.

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

**Florence E. Harmon,**

*Deputy Secretary.*

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<sup>4</sup> 15 U.S.C. 78q-1.

<sup>5</sup> 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).

<sup>6</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>7</sup> 15 U.S.C. 78q-1.

<sup>8</sup> 15 U.S.C. 78s(b)(2).

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

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

<sup>2</sup> Securities Exchange Act Release No. 62767 (August 26, 2010), 75 FR 53368.

<sup>3</sup> The specific language of the proposed provision is available at [http://www.dtcc.com/downloads/legal/rule\\_filings/2010/ficc/2010-04.pdf](http://www.dtcc.com/downloads/legal/rule_filings/2010/ficc/2010-04.pdf).