

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-69423; File No. SR-ICEEU-2013-05]

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Withdrawal of Proposed Rule Change Regarding Central Counterparty Resolution and Recovery Procedures

April 22, 2013.

On March 7, 2013, ICE Clear Europe Limited (“ICE Clear Europe”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934¹ and Rule 19b-4 thereunder,² a proposed rule change to adopt new provisions relating to clearinghouse resolution and recovery following the exhaustion of available resources after a Clearing Member default or a series of Clearing Member defaults. Notice of the proposed rule change was published in the **Federal Register** on March 28, 2013.³ The Commission did not receive comments on the proposed rule change.

On April 19, 2013, ICE Clear Europe withdrew the proposed rule change (SR-ICEEU-2013-05).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴

Elizabeth M. Murphy,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-69434; File No. SR-FICC-2013-03]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing of 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

April 23, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on April 15, 2013, the Fixed Income Clearing

Corporation (“FICC”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FICC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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 correct Rule 11, Section 5(o), of FICC’s Mortgage-Backed Securities Division (“MBSD”) Clearing Rules in order to accurately reflect the manner in which FICC should allocate an indemnity claim made in connection with the use of the Board of Governors of the Federal Reserve System’s (“FRB”) National Settlement Service (“NSS”).⁴

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 section (A), (B) and (C) below, of the most significant aspects of such statements.⁵

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

FICC’s Government Securities Division (“GSD”) and MBSD each use the FRB’s NSS for Funds-Only Settlement⁶ and Cash Settlement⁷ purposes, respectively. GSD’s Rule 13

³ The acronym “FRB” is a defined in MBSD’s Clearing Rule 1 (Definitions) as the Board of Governors of the Federal Reserve System and each Federal Reserve Bank, as appropriate.

⁴ The text of the proposed rule change is provided as Exhibit 5 to this filing and is available at www.dtcc.com/downloads/legal/rule_filings/2013/ficc/SR_FICC_2013_03.pdf.

⁵ The Commission has modified the text of the summaries prepared by FICC.

⁶ “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.

⁷ “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.

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.⁸ 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.⁹ 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 proposed 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 and central counterparty services,¹⁰ which among other things established the loss mutualization process, the MBSD 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 MBSD rules. Accordingly, the rule change proposes to correct this oversight by revising MBSD 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 MBSD Rule 4 and allocated accordingly.

FICC believes the proposed rule change is consistent with Section 17A of the Act and the rules and regulations thereunder because it would facilitate the prompt and accurate clearance and settlement of securities transactions by correcting MBSD’s rules to accurately reflect the loss allocation procedures in

⁸ See GSD’s Rule 13 Section 5(o) and MBSD Rule 11, Section 5(o).

⁹ Rule 4(f) of GSD’s Rulebook.

¹⁰ 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 MBSD to provide guaranteed settlement and central counterparty services).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 69209 (Mar. 22, 2013), 78 FR 19057 (Mar. 28, 2013).

⁴ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.