

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-100137; File No. SR-FICC-2024-008)

May 14, 2024

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing of Proposed Rule Change to Modify the GSD Rules and MBSD Rules to Update Certain Member Requirements Under CCLF

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 May 8, 2024, 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 the clearing agency. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency’s Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to modify the MBSD Rules concerning CCLF (also known as the Capped Contingency Liquidity Facility) to (i) require that each MBSD Clearing Member provide an annual attestation that its Defined Capped Liquidity Amount has been incorporated into its liquidity plans; (ii) require Clearing Members to provide certain acknowledgements to FICC concerning their understanding of and ability to meet their CCLF obligations; and (iii) provide additional clarity and transparency in the MBSD Rules concerning the liquidity funding reports that are made available to Clearing Members in connection with their CCLF obligations. The proposed rule change would also modify the GSD Rules to include a similar requirement

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

that each GSD Netting Member provide certain acknowledgements to FICC concerning their understanding of and ability to meet their CCLF obligations and provide further clarity around GSD’s regular attestation requirement in GSD Rule 22A.³

II. Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency 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. The clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Background

CCLF is a rules-based committed liquidity facility designed to help ensure that FICC maintains sufficient liquid financial resources to meet its cash settlement obligations in the event of a default of the member (and its affiliates) to which FICC has the largest exposure in extreme but plausible market conditions. In the event that FICC has ceased to act for an MBS Clearing Member pursuant to MBS Rule 17 or for a GSD Netting Member pursuant to GSD Rule 22A, FICC may declare a Capped Contingency Liquidity Facility Event (a “CCLF Event”), pursuant to which such

³ Capitalized terms not defined herein are defined in the GSD Rules and MBS Rules, as applicable, available at www.dtcc.com/legal/rules-and-procedures.

members may be required to hold and fund their deliveries to the insolvent member, up to a predetermined cap, by entering into repo transactions with FICC until the associated closeout is complete. The maximum predetermined cap amount that an MBSD Clearing Member would be required to fund during a CCLF Event is referred to as the “Defined Capped Liquidity Amount.” The maximum predetermined cap amount that a GSD Netting Member would be required to fund during a CCLF Event is referred to as the “Individual Total Amount.” Each MBSD Clearing Member’s Defined Capped Liquidity Amount or GSD Netting Member’s Individual Total Amount is generally established at set intervals based on liquidity studies performed by FICC; however, FICC may also reset such amounts at such other time periods as FICC may determine from time to time (an “*ad hoc* resizing”).⁴

Proposed Changes

FICC proposes to modify the MBSD Rules to (i) require that each Clearing Member provide a regular attestation that its Defined Capped Liquidity Amount has been incorporated into its liquidity plans and (ii) provide additional clarity and transparency concerning the liquidity funding reports that are made available to Clearing Members in connection with their CCLF obligations. Additionally, FICC proposes to modify both the MBSD Rules and GSD Rules to require MBSD Clearing Members and GSD Netting Members to provide certain acknowledgements to FICC concerning their understanding of and ability to meet their CCLF obligations. FICC also proposes to modify the GSD

⁴ See MBSD Rule 17, Section 2a(c) and GSD Rule 22A, Section 2a(b), supra note 3.

Rules to provide further clarity around GSD's regular attestation requirement in GSD Rule 22A. The proposed changes are discussed in detail below.

Required Attestation

FICC proposes to adopt new Section 2a(e) of MBSD Rule 17 that would require each Clearing Member to provide to FICC a regular attestation that the Clearing Member's Defined Capped Liquidity Amount has been incorporated into its liquidity plans ("Required Attestation"). The Required Attestation would be required on at least an annual basis or upon demand by FICC. The newly proposed rule would require that each Required Attestation be signed by two authorized officers of the Clearing Member (or otherwise be satisfactory in form and substance to FICC) and contain the following certifications: (1) such officers have read and understand the MBSD Rules; (2) the Clearing Member's Defined Capped Liquidity Amount has been incorporated into the Clearing Member's liquidity planning; (3) the Clearing Member acknowledges and agrees that its Defined Capped Liquidity Amount may be changed pursuant to Section 2a(c) of MBSD Rule 17 or otherwise upon ten Business Days' Notice; (4) the Clearing Member will incorporate any changes to its Defined Capped Liquidity Amount into its liquidity planning; and (5) the Clearing Member shall, through periodic discussions with its financing sources and other methods, continually reassess its liquidity plans and related operational plans, including in the event of any changes to such Clearing Member's Defined Capped Liquidity Amount, to ensure such Clearing Member's ability to meet its Defined Capped Liquidity Amount. FICC would also add a new defined term to the definitions in MBSD Rule 1 for "Required Attestation," which would refer readers to newly proposed Section 2a(e) of MBSD Rule 17.

FICC believes that the proposed rule change would strengthen the CCLF program by requiring each Clearing Member to attest that it understands its potential obligations under CCLF, has taken appropriate steps to incorporate such obligations in its liquidity planning, and continually reassess its liquidity plans and related operational plans as those obligations change. FICC notes that the proposed rule would mirror an existing requirement in the GSD Rules that Netting Members provide a comparable Required Attestation to FICC concerning such Netting Member's CCLF obligations.⁵

Liquidity Funding Report

FICC also proposes to adopt new Section 2a(d) of MBSD Rule 17 to provide additional clarity and transparency around the liquidity funding reports made available to MBSD Clearing Members. Specifically, Section 2a(d) of MBSD Rule 17 would provide that on each Business Day, FICC will make a liquidity funding report available to each Clearing Member, for informational purposes only, that includes (i) the Clearing Member's Defined Capped Liquidity Amount and (ii) other information concerning historical CCLF requirements. The proposed rule would further reiterate that, in the event that FICC declares a CCLF Event, Clearing Members shall be required to enter into CCLF Transactions up to their Defined Capped Liquidity Amount as calculated by FICC. FICC notes that the proposed rule would provide similar clarity and transparency regarding the information and reporting made available by FICC to MBSD Clearing

⁵ See GSD Rule 22A, Section 2a(d), supra note 3, and proposed conforming changes to the GSD Rule discussed below.

Members as is currently provided to GSD Netting Members under Section 2a(c) of GSD Rule 22A.⁶

CCLF Acknowledgements

FICC proposes to adopt new Section 2a(f) of MBS Rule 17 and Section 2a(e) of GSD Rule 22A to permit FICC to require MBS Clearing Members and GSD Netting Members to provide certain acknowledgements to FICC, in such form and at such times as FICC may determine from time to time, concerning such member's understanding of and ability to meet its CCLF obligations. Such written acknowledgements would include, but not be limited to, an acknowledgement from each member whose CCLF obligations increase by an amount exceeding certain thresholds established FICC following any *ad hoc* resizing of the CCLF confirming such member's ability to meet the increased obligation.⁷ Proposed Section 2a(f) of MBS Rule 17 and Section 2a(e) of GSD Rule 22A would further provide that FICC will inform members of any such required acknowledgements, including specific thresholds for any required acknowledgement, by Important Notice. FICC believes that the proposed rule change would strengthen the CCLF program by ensuring that each MBS Clearing Member and GSD Netting Member is informed of and understands certain key obligations under CCLF as may be required by FICC, particularly in the event of an *ad hoc* resizing of the facility.

⁶ See GSD Rule 22A, Section 2a(c), supra note 3.

⁷ FICC would initially establish this threshold to be any increase of \$1 million or more.

Other Proposed Clarifying Changes

Finally, FICC would also modify Section 2(a)(d) of GSD Rule 22A concerning GSD's Required Attestations to clarify that the regular interval for attestations from GSD Netting Members is "on at least an annual basis." As a matter of practice, GSD currently requires the attestations on an at least an annual basis, and the proposed change would align the GSD Rules with the proposed MBSD Rules concerning Required Attestations and provide additional clarity and transparency to GSD Netting Members concerning the attestation requirement.

2. Statutory Basis

FICC believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a registered clearing agency. Section 17A(b)(3)(F) of Act⁸ requires, in part, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds, which are in the custody or control of the clearing agency or for which it is responsible. FICC believes the proposed rule change would strengthen the CCLF program by requiring each MBSD Clearing Member to attest to its understanding of its potential obligations under CCLF, that it has taken appropriate steps to incorporate such obligations in its liquidity planning, and that it continually reassesses its liquidity plans and related operational plans as those obligations change. Furthermore, the proposed rule change would also clearly state in both the MBSD and GSD Rules that Required Attestations are completed on at least an

⁸ 15 U.S.C. 78q-1(b)(3)(F).

annual basis. It would also require MBSB Clearing Members and GSD Netting Members to acknowledge, among other things, significant increases in their CCLF obligations following any *ad hoc* resizing of the CCLF. CCLF provides additional liquidity to FICC in the event that its other liquidity resources are insufficient upon the default of an MBSB Clearing Member or GSD Netting Member, which would help ensure that FICC has sufficient funds to meet its cash settlement obligations to its non-defaulting participants. FICC therefore believes the proposed rule change is designed to 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 FICC or for which it is responsible, consistent with Section 17A(b)(3)(F) of the Act.

Rule 17Ad-22(e)(7) under the Act⁹ requires generally that a covered clearing agency establish, implement, maintain, and enforce written policies and procedures reasonably designed to effectively measure, monitor, and manage the liquidity risk that arises in or is borne by the covered clearing agency. As described above, the proposed attestation and acknowledgements are intended to reinforce each member's understanding of its responsibilities under CCLF. Specifically, they are designed to ensure that the member understands its potential obligations under CCLF, that it has taken appropriate steps to incorporate such obligations in its liquidity planning, and that it continually reassesses its liquidity plans and related operational plans as those obligations change. CCLF provides additional liquidity to FICC in the event that its other liquidity resources are insufficient upon a member default and helps to ensure that FICC has sufficient funds to manage its liquidity risk and meet its cash settlement obligations on an

⁹ 17 CFR 240.17Ad-22(e)(7).

ongoing and timely basis. FICC therefore believes the proposed rule change is reasonably designed to comply with the requirements of Rule 17Ad-22(e)(7) under the Act.

(B) Clearing Agency's Statement on Burden on Competition

Section 17A(b)(3)(I) of Act¹⁰ requires that the rules of a clearing agency do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. FICC does not believe that the proposed rule change would impose any burden or have an impact on competition. The proposed rule change would not impact the financial obligations of FICC's members under CCLF. The proposed Required Attestation is intended to ensure that each MBSD Clearing Member understands its potential obligations under CCLF, has taken appropriate steps to incorporate such obligations in its liquidity planning, and continually reassess its liquidity plans and related operational plans as those obligations change. Pursuant to Section 7 of Rule 2A, each MBSD Clearing Member agrees to abide by the MBSD Rules and to be bound by all the provisions thereof. This includes the requirements and obligations associated with CCLF as provided in Section 2a of MBSD Rule 17. FICC believes that most of the responsibilities and activities to which MBSD Clearing Members would be required to attest (e.g., reading and understanding the MBSD Rules, understanding its obligations under CCLF, incorporating such obligations into its liquidity planning, and continually reassessing such plans, especially as its CCLF obligations change) are, to a large extent, reasonably and fairly implied in order to abide by and comply with such Clearing Member's existing obligations under the CCLF rules. Furthermore, the

¹⁰ 15 U.S.C. 78q-1(b)(3)(I).

proposed rule change would not prescribe the specific ways in which Clearing Members satisfy the attestation requirement but rather provides flexibility for each Clearing Member to consider methods to meet its CCLF obligations in the manner that best suits its specific business, operating, and regulatory model, as well as applicable balance sheet, liquidity plan, and ownership structure. Finally, FICC does not believe that requiring a written acknowledgement from MBSD Clearing Members or GSD Netting Members regarding their understanding of and ability to meet CCLF obligations, particularly those following an *ad hoc* resizing, would impose any burden or competitive impact on those members. Accordingly, FICC does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

FICC has not received or solicited any written comments relating to this proposal. If any written comments are received, they will be publicly filed as an Exhibit 2 to this filing, as required by Form 19b-4 and the General Instructions thereto.

Persons submitting comments are cautioned that, according to Section IV (Solicitation of Comments) of the Exhibit 1A in the General Instructions to Form 19b-4, the Commission does not edit personal identifying information from comment submissions. Commenters should submit only information that they wish to make available publicly, including their name, email address, and any other identifying information.

All prospective commenters should follow the Commission's instructions on how to submit comments, available at www.sec.gov/regulatory-actions/how-to-submit-

comments. General questions regarding the rule filing process or logistical questions regarding this filing should be directed to the Main Office of the SEC's Division of Trading and Markets at tradingandmarkets@sec.gov or 202-551-5777.

FICC reserves the right to not respond to any comments received.

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

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

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 (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-FICC-2024-008 on the subject line.

Paper Comments:

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

All submissions should refer to file number SR-FICC-2024-008. This file number should be included on the subject line if email 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 website (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change 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 website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of FICC and on DTCC's website (dtcc.com/legal/sec-rule-filings). Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection.

All submissions should refer to File Number SR-FICC-2024-008 and should be submitted on or before [INSERT DATA 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Sherry R. Haywood,
Assistant Secretary.

¹¹ 17 CFR 200.30-3(a)(12).