



February 23, 2021

SUBMITTED VIA E-MAIL

The Honorable Allison Herren Lee
Acting Chair
Securities and Exchange Commission
100 F Street NE
Washington, DC 20549-1090

Re: File No. SR-FICC-2020-017; Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Instituting Proceedings to Determine Whether to Approve or Disapprove a Proposed Rule Change to Modify the Calculation of the MBSD VaR Floor to Incorporate a Minimum Margin Amount

Dear Acting Chair Lee:

The Independent Dealer and Trader Association (“IDTA”)¹ and the Mortgage Bankers Association (“MBA”)² submit this letter in response to your request for views, data, and arguments in the above-captioned order (“Order Instituting Proceedings”) on the Fixed Income Clearing Corporation’s (“FICC”) filing with the Securities and Exchange Commission (“SEC” or “Commission”) of the proposed rule change SR-FICC-2020-017 (the “Proposed Rule Change”) to amend the FICC Mortgage-Backed Securities Division (“MBSD”) Rulebook (the “MBSD Rules”)

¹ The IDTA was formed to create a forum for independent dealers and traders to discuss and consider the impact of market operational issues on their industry sector and to advocate for constructive solutions that promote the liquidity and efficiency of capital markets. The objective of the IDTA is to form an interactive line of communication with regulators and other relevant policy makers, with particular emphasis on the Securities and Exchange Commission, the Treasury Department, and the Federal Reserve Bank of New York. The IDTA is composed of seven organizations registered as broker-dealers or futures commission merchants (or affiliates of such organizations) that are not affiliated with a bank holding company. For additional information, visit IDTA’s web site: www.idtassoc.com/.

² The MBA is the national association representing the real estate finance industry, an industry that employs more than 280,000 people in virtually every community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation’s residential and commercial real estate markets, to expand homeownership, and to extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of over 2,300 companies includes all elements of real estate finance: mortgage companies, mortgage brokers, commercial banks, thrifts, REITs, Wall Street conduits, life insurance companies, and others in the mortgage lending field. For additional information, visit MBA’s web site: www.mba.org.

in order to modify the calculation of the Value-at-Risk (“VaR”) floor through the introduction of a new “Minimum Margin Amount” charge against each clearing member.³

The IDTA and MBA thank the Commission for instituting proceedings to determine whether to approve or disapprove the Proposed Rule Change. As discussed in our previous letter to the Commission, we believe the Proposed Rule Change is inconsistent with the requirements of the Securities Exchange Act of 1934 (“Act”) and the rules and regulations thereunder applicable to FICC – in particular, Section 17A(b)(3)(F) of the Act and Rules 17Ad-22(e)(4)(i) and (e)(6)(i) – because the Proposed Rule Change’s reliance on historical price movements does not generate margin requirements that equate to future protections against market volatility, and, thus, the Minimum Margin Amount formula is unreasonably designed as a mechanism to mitigate future risk.⁴ We also argued that the Proposed Rule Change is inconsistent with Section 17A(b)(3)(I) of the Act because it imposes unnecessary burden on competition by establishing margin requirements that are divorced from reasoned analysis and that will force well-capitalized yet smaller participants who cannot comply with the Proposed Rule Change’s onerous margin requirements to transact with fewer counterparties in smaller volumes, thereby reducing the supply of services they provide and driving prices higher for the consumers that rely upon these services.⁵

Upon further review of the data in the Proposed Rule Change, and as highlighted in the Order Instituting Proceedings, we continue to believe that the Proposed Rule Change imposes unnecessary burden on competition and urge the Commission to deny the Proposed Rule Change.

***FICC’s Own Data Suggests the Proposed Rule Change
Will Result in an Unnecessary Burden on Competition***

In its Order Instituting Proceedings, the Commission summarizes the effect of the changes proposed in the Proposed Rule Change by relying on the impact study FICC performed on its members’ portfolios.⁶ The Commission must further question the findings of this study.

First, FICC states that the “largest dollar increase for any member would have been \$333 million, or 37% increase in the VaR Charge.”⁷ Because the Minimum Margin Amount is proportional to the portfolio’s size, this data point most likely came from one of FICC’s largest clearing members. FICC notes, however, that a 146% or \$22 million increase is the “largest

³ Securities Exchange Act Release No. 34-91092 (Feb. 9, 2021), 86 Fed. Reg. 9560 (Feb. 16, 2021) (“Order Instituting Proceedings”), available at <https://www.govinfo.gov/content/pkg/FR-2021-02-16/pdf/2021-02996.pdf>. See also Securities Exchange Act Release No. 34-90568 (Dec. 4, 2020), 85 Fed. Reg. 79541 (Dec. 10, 2020) (“Proposed Rule Change”), available at <https://www.govinfo.gov/content/pkg/FR-2020-12-10/pdf/2020-27087.pdf>. Capitalized terms not otherwise defined herein are defined in the Proposed Rule Change.

⁴ See Letter from James Tabacchi, Chairman, Independent Dealer and Trader Association and Mike Fratantoni, Chief Economist, Senior Vice President, Mortgage Bankers Association, dated January 26, 2021, to Allison Herren Lee, Acting Chair, Commission, at 4-5, available at <https://www.sec.gov/comments/sr-ficc-2020-017/srficc2020017-8290678-228219.pdf>.

⁵ *Id.* at 2-4.

⁶ See Order Instituting Proceedings, *supra* note 3, at 9561.

⁷ *Id.*

percentage increase in VaR charge for any member.”⁸ So, while a smaller member may see its margin requirement increase by as much as 146%, a large clearing member is more likely to experience an increase of approximately 37% in its VaR requirements. This proposed floor clearly affects smaller members more harshly, but FICC claims that, on average, members would see their margin requirement increase only by \$27 million. The Commission should understand and consider how this figure translates into a percentage increase relative to the average total VaR collected from members.

Second, FICC states that the “top 10 members based on the size of their VaR Charges would have contributed 69.3% of the aggregate VaR Charges had the Minimum Margin Amount been in place.”⁹ Those 10 members, however, only would be responsible for 54% of the additional margin that would be collected under the proposal. In short, the largest clearing members would be contributing disproportionately less than the smaller members.

One possible reason for this disproportionately larger impact on small- and medium-sized firms is because many of these firms, including IDTA members, are customer facing to mortgage originators, resulting in a one-sided exposure – even while managed and hedged – rather than a netting of positions across several entities. As stated above, the consequences of this disproportionality not only affect the MBSD member firm, but also will directly affect the quantity and price of credit and other services to the small- and medium-sized mortgage originators that rely upon this sector of the market for such services.

Finally, FICC claims that the total impact of the additional margin would have been a reduction in Backtesting Charges of \$450 million or 53% of the total charges in the 12-month backtest, which would have improved the coverage ratio from 97.3% to 98.5%.¹⁰ FICC does not explain how the additional margin requirements are equitably distributed to avoid resulting in an unnecessary burden on competition. It is not clear, for example, how the reduction in Backtesting Charges distributed across members. Based on FICC’s data, it seems that the percentage reduction in Backtesting Charges would be much greater for the smaller members’ portfolios, and that the largest members would benefit from less severe increases in their margin requirements.

* * *

As previously noted, we are concerned that the practical effects of the Proposed Rule Change would be greater financial burdens on mid-sized broker-dealers, increased consolidation of critical services provided to small- to mid-sized mortgage originators, and more expensive or reduced access to mortgage credit for the communities served by these originators.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

The IDTA and MBA thank the SEC for considering our comments. Should you have any questions, please contact the undersigned.

Sincerely,



James Tabacchi
Chairman
Independent Dealer and Trader Association



Mike Fratantoni
Chief Economist, Senior Vice President
Mortgage Bankers Association

CC: Michael Bodson, President and CEO, DTCC
Timothy Cuddihy, Managing Director, DTC