

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 inspection and copying 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 such filing also will be available for inspection and copying at the principal office of FINRA. 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-FINRA-2009-051 and should be submitted on or before August 28, 2009.

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

**Florence E. Harmon,**

*Deputy Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-60421; File No. SR-FICC-2009-07]

**Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify Haircuts Applied to Eligible Clearing Fund Securities and Eligible Participant Fund Securities**

August 3, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

("Act"),<sup>1</sup> notice is hereby given that on July 13, 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 modify the haircuts applied to Eligible Clearing Fund Securities and Eligible Participant Fund Securities.

**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.<sup>2</sup>

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

Under the Rules of the Government Securities Division ("GSD") and the Mortgage-Backed Securities Division ("MBSD") ("Rules"), GSD Members and MBSD Participants are required to deposit to the GSD Clearing Fund and MBSD Participants Fund, respectively, the amount of each Member's or Participant's required deposit, which is established by FICC in accordance with formulas specified in the Rules ("Required Deposit").

A Member or Participant may satisfy its Required Deposit with cash, and

FICC may permit a portion of the Member's or Participant's deposit to be evidenced by an open account indebtedness secured by Eligible Clearing Fund Securities for the GSD and Eligible Participants Fund Securities for the MBSD. Eligible Clearing Fund Securities and Eligible Participants Fund Securities consist of certain Treasury, agency, and mortgage-backed securities.

For reasons set forth in a companion rule filing, FICC's affiliate, National Securities Clearing Corporation ("NSCC"), has increased haircuts on Clearing Fund collateral.<sup>3</sup> Given that the haircuts are applied by FICC and NSCC systemically and on a harmonized basis, these changes are also being applied by FICC.

Therefore, FICC proposes to modify the GSD's Schedule of Haircuts for Eligible Clearing Fund Securities and the MBSD's Schedule of Haircuts for Eligible Participants Fund Securities to update the correlating range of haircuts applied to the types of Eligible Clearing Fund Securities and Eligible Participants Fund Securities. Specifically, FICC proposes to increase the haircut on: (i) Interest bearing Treasuries with terms greater than 10 years but less than 15 years from the current 5 percent to 6 percent and (ii) zero coupon obligations of U.S. Treasury and Agency Securities from the current 2 to 10 percent based on term to 5 to 12 percent based on term.

A complete listing of the haircut schedule, showing modifications, is as follows (deletions are in brackets and additions are italicized):

**GSD SCHEDULE OF HAIRCUTS FOR ELIGIBLE CLEARING FUND SECURITIES**

Security type	Remaining maturity	Haircut
1. Treasury		
Bills, Notes, Bonds, TIPS .....	Zero to 1 year .....	2.0%
	1 year to 2 years .....	2.0%
	2 years to 5 years .....	3.0%
	5 years to 10 years .....	4.0%
	10 years to 15 years .....	[5.0%] <i>6.0%</i>
	15 years or greater .....	6.0%
Zero Coupon .....	Zero to 1 year .....	[2.0%] <i>5.0%</i>

<sup>11</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> The Commission has modified the text of the summaries prepared by FICC.

<sup>3</sup> Securities Exchange Act Release No. 60368 (July 22, 2009), 74 FR 37275.

GSD SCHEDULE OF HAIRCUTS FOR ELIGIBLE CLEARING FUND SECURITIES—Continued

Security type	Remaining maturity	Haircut	
2. Agency Notes, Bonds	1 year to 2 years	[2.0%] 5.0%	
	2 years to 5 years	[4.0%] 5.0%	
	5 years to 10 years	[6.0%] 12.0%	
	10 years to 15 years	[7.0%] 12.0%	
	15 years or greater	[9.0%] 12.0%	
	Zero Coupon	Zero to 1 year	2.0%
		1 year to 2 years	3.0%
		2 years to 5 years	4.0%
		5 years to 10 years	5.0%
		10 years to 15 years	6.0%
		15 years or greater	7.0%
	3. MBS Pass-throughs	Zero to 1 year	[2.0%] 5.0%
		1 year to 2 years	[3.0%] 5.0%
		2 years to 5 years	5.0%
		5 years to 10 years	[7.0%] 12.0%
10 years to 15 years		[8.0%] 12.0%	
15 years or greater		[10.0%] 12.0%	
4. Self-issued MBS	Ginnie Mae	6.0%	
	Fannie Mae/Freddie Mac	7.0%	
		14% (or 21% if 25% concentration limit is exceeded).	

MBSD SCHEDULE OF HAIRCUTS FOR ELIGIBLE PARTICIPANTS FUND SECURITIES

Security type	Remaining maturity	Haircut	
1. Treasury Bills, Notes, Bonds, TIPS	Zero to 1 year	2.0%	
	1 year to 2 years	2.0%	
	2 years to 5 years	3.0%	
	5 years to 10 years	4.0%	
	10 years to 15 years	[5.0%] 6.0%	
	15 years or greater	6.0%	
	Zero Coupon	Zero to 1 year	[2.0%] 5.0%
		1 year to 2 years	[2.0%] 5.0%
		2 years to 5 years	[4.0%] 5.0%
		5 years to 10 years	[6.0%] 12.0%
		10 years to 15 years	[7.0%] 12.0%
		15 years or greater	[9.0%] 12.0%
	2. Agency Notes, Bonds	Zero to 1 year	2.0%
		1 year to 2 years	3.0%
		2 years to 5 years	4.0%
5 years to 10 years		5.0%	
10 years to 15 years		6.0%	
15 years or greater		7.0%	
Zero Coupon	Zero to 1 year	[2.0%] 5.0%	
	1 year to 2 years	[3.0%] 5.0%	
	2 years to 5 years	5.0%	
	5 years to 10 years	[7.0%] 12.0%	
	10 years to 15 years	[8.0%] 12.0%	
	15 years or greater	[10.0%] 12.0%	
3. MBS Pass-Throughs	Ginnie Mae	6.0%	
	Fannie Mae/Freddie Mac	7.0%	
4. Self-issued MBS		14% (or 21% if 25% concentration limit is exceeded).	

These changes will become effective as of August 3, 2009.

FICC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act<sup>4</sup> and the rules and regulations thereunder applicable to FICC because the proposed rule change should

facilitate the prompt and accurate clearance and settlement of securities transactions by adjusting FICC's haircut levels on Eligible Clearing Fund Securities and Eligible Participant Fund Securities and facilitating FICC's ability to ensure adequate collateral levels are maintained to facilitate settlement in the

event of a Member or Participant default.

(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.

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

*(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 Act<sup>5</sup> and Rule 19b-4(f)(4)<sup>6</sup> 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 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](mailto:rule-comments@sec.gov). Please include File Number SR-FICC-2009-07 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-2009-07. 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 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 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](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-2009-07 and should be submitted on or before August 28, 2009.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.<sup>7</sup>

**Florence E. Harmon,**  
*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-60422; File No. SR-FINRA-2009-048]

### Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change to Adopt FINRA Rule 5230 (Payments Involving Publications that Influence the Market Price of a Security) in the Consolidated FINRA Rulebook

August 3, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on July 21, 2009, Financial Industry Regulatory Authority, Inc. ("FINRA") (f/k/a National Association of Securities

Dealers, Inc. ("NASD")) filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. 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

FINRA is proposing to adopt NASD Rule 3330 (Payment Designed to Influence Market Prices, Other than Paid Advertising) as FINRA Rule 5230 in the consolidated FINRA rulebook, with several changes to clarify the scope of the rule.

The text of the proposed rule change is available on FINRA's Web site at <http://www.finra.org>, at the principal office of FINRA 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, FINRA 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. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

##### 1. Purpose

As part of the process of developing a new consolidated rulebook ("Consolidated FINRA Rulebook"),<sup>3</sup> FINRA is proposing to adopt NASD Rule 3330 into the Consolidated FINRA Rulebook as FINRA Rule 5230 with

<sup>3</sup> The current FINRA rulebook consists of (1) FINRA Rules; (2) NASD Rules; and (3) rules incorporated from NYSE ("Incorporated NYSE Rules") (together, the NASD Rules and Incorporated NYSE Rules are referred to as the "Transitional Rulebook"). While the NASD Rules generally apply to all FINRA members, the Incorporated NYSE Rules apply only to those members of FINRA that are also members of the NYSE ("Dual Members"). The FINRA Rules apply to all FINRA members, unless such rules have a more limited application by their terms. For more information about the rulebook consolidation process, see FINRA *Information Notice*, March 12, 2008 (Rulebook Consolidation Process).

<sup>5</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>6</sup> 17 CFR 240.19b-4(f)(4).

<sup>7</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> 17 CFR 240.19b-4.