

exhibit to or quoted in the application. Any amendment to the application must contain a similar statement as to the applicability of the original statement of authorization. When any application or amendment is signed by an agent or attorney, rule 0–4 requires that the power of attorney evidencing his authority to sign shall state the basis for the agent's authority and shall be filed with the Commission. Every application subject to rule 0–4 must be verified by the person executing the application by providing a notarized signature in substantially the form specified in the rule. Each application subject to rule 0–4 must state the reasons why the applicant is deemed to be entitled to the action requested with a reference to the provisions of the Act and rules thereunder, the name and address of each applicant, and the name and address of any person to whom any questions regarding the application should be directed. Rule 0–4 requires that a proposed notice of the proceeding initiated by the filing of the application accompany each application as an exhibit and, if necessary, be modified to reflect any amendment to the application.

The requirements of rule 0–4 are designed to provide Commission staff with the necessary information to assess whether granting the orders of exemption are necessary and appropriate in the public interest and consistent with the protection of investors and the intended purposes of the Act.

Applicants for orders under the Advisers Act can include registered investment advisers, affiliated persons of registered investment advisers, and entities seeking to avoid investment adviser status, among others. Commission staff estimates that it receives up to 9 applications per year submitted under rule 0–4 of the Act seeking relief from various provisions of the Advisers Act and, in addition, up to 7 applications per year submitted under Advisers Act rule 206(4)-5, which addresses certain “pay to play” practices and also provides the Commission the authority to grant applications seeking relief from certain of the rule's restrictions. Although each application typically is submitted on behalf of multiple applicants, the applicants in the vast majority of cases are related entities and are treated as a single respondent for purposes of this analysis. Most of the work of preparing an application is performed by outside counsel and, therefore, imposes no hourly burden on respondents. The cost outside counsel charges applicants depends on the complexity of the issues

covered by the application and the time required. Based on conversations with applicants and attorneys, and recent analyses by the Commission,¹ the cost for applications ranges from approximately \$12,800 for preparing a well-precedented, routine (or otherwise less involved) application to approximately \$200,000 to prepare a complex or novel application. We estimate that the Commission receives 2 of the most time-consuming applications annually, 4 applications of medium difficulty, and 10 of the least difficult applications subject to rule 0–4.² This distribution gives a total estimated annual cost burden to applicants of filing all applications of \$702,000 [(2x\$200,000) + (4x\$43,500) + (10x\$12,800)]. The estimate of annual cost burden is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even representative survey or study of the costs of Commission rules and forms.

The requirements of this collection of information are required to obtain or retain benefits. Responses will not be kept confidential. 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 are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including

¹ See *Family Offices*, Investment Advisers Act Release No. 3220 (June 22, 2011), at section IV.A (“We estimate that a typical family office will incur legal fees of \$200,000 on average to engage in the exemptive order application process, including preparation and revision of an application and consultations with Commission staff.”) Although the Commission may receive fewer exemptive applications from family offices in light of rule 202(a)(11)(G)-1, which defines family offices that are now excluded from regulation under the Advisers Act, the costs to prepare family office applications may be representative of the costs required to prepare other more complex and novel applications. See also *Political Contributions by Certain Investment Advisers*, Investment Advisers Act Release No. 3043 (July 1, 2010), at section V.D. (estimating that applications filed under Advisers Act rule 206(4)-5 “will cost approximately \$12,800”).

² The estimated 10 least difficult applications include the estimated 7 applications per year submitted under Advisers Act rule 206(4)-5. The Commission previously estimated that these applications will cost approximately \$12,800 each. *Id.*

through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Thomas Bayer, Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312; or send an email to: PRA_Mailbox@sec.gov.

Dated: April 11, 2013.

Kevin M. O'Neill,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69362; File No. 600–23]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing of Amended Application for Registration as a Clearing Agency

April 11, 2013.

I. Introduction

On April 5, 2013, the Fixed Income Clearing Corporation (“FICC”) filed with the Securities and Exchange Commission (“Commission”) an amended Form CA–1¹ seeking permanent registration as a clearing agency under Section 17A of the Securities Exchange Act of 1934² (“Act”) and Rule 17Ab2–1 thereunder.³ The Commission is publishing this notice to solicit comments from interested persons regarding this amended Form CA–1.⁴ The Commission will consider any comments it receives in making its determination whether to grant FICC's request for permanent registration as a clearing agency. The Commission will grant FICC permanent registration only if it concludes that

¹ See Letter from Donaldine Temple, Senior Associate Counsel and Corporate Secretary, FICC, to Joseph P. Kamnik, Assistant Director, Division of Trading and Markets (April 4, 2013). The amendment filed by FICC updates all of the information required by Form CA–1 and incorporates by reference all information submitted in connection with FICC's prior application and amendments thereto, to the extent this previously submitted information remains accurate.

² 15 U.S.C. 78q–1.

³ 17 CFR 240.17Ab2–1(a).

⁴ The descriptions set forth in this notice regarding the structure and operations of FICC have been largely derived from information contained in FICC's amended Form CA–1 application and publicly available sources. The application and non-confidential exhibits thereto are available on the Commission's Web site.

FICC has satisfied all requirements of the Act.⁵

II. Background

On December 13, 1986, the Mortgage Backed Securities Clearing Corporation ("MBSCC") filed with the Commission a Form CA-1⁶ seeking registration as a clearing agency. The Commission granted MBSCC a temporary registration on February 2, 1987,⁷ and extended this temporary registration on several occasions thereafter.⁸ On October 16, 1987, the Government Securities Clearing Corporation ("GSCC"), filed with the Commission a Form CA-1⁹ seeking registration as a clearing agency. The Commission granted GSCC a temporary registration on May 24, 1988,¹⁰ and extended this temporary registration on several occasions thereafter.¹¹ GSCC filed an amended

Form CA-1 on November 15, 2002, in which it explained that it intended to acquire MBSCC.¹² On January 1, 2003, GSCC acquired MBSCC and named the resulting entity FICC.¹³ At the time of the merger, both GSCC and MBSCC were operating under temporary registrations with the Commission, and FICC has operated under a temporary registration since that time. The temporary registrations granted to MBSCC and GSCC exempted them from certain requirements imposed by Section 17A of the Act.¹⁴ Specifically, both MBSCC and GSCC were exempted from compliance with the Act's fair representation requirement,¹⁵ and GSCC was further exempted from the Act's participation requirements.¹⁶ The exemptions granted to MBSCC and GSCC have since been removed because the Commission determined that both clearing agencies satisfied the statutory requirements from which the entities

were previously exempted.¹⁷ Thus, FICC is now subject to all requirements applicable to registered clearing agencies.

Following GSCC's acquisition of MBSCC, the Commission extended FICC's temporary registration on several occasions.¹⁸ The Commission most recently extended FICC's temporary registration on June 20, 2011.¹⁹ At that time, the Commission explained that it would consider whether to grant FICC permanent registration after the Commission acted upon FICC's proposal to introduce central counterparty and guarantee settlement services to FICC's Mortgage-Backed Securities Division. The Commission approved FICC's request to allow its Mortgage-Backed Securities Division to act as a central counterparty and settlement guarantor on March 9, 2012.²⁰ FICC's temporary registration expires on June 30, 2013.²¹

III. Overview of FICC

FICC is a wholly owned subsidiary of the Depository Trust & Clearing Corporation ("DTCC"), and is generally administered as an industry-owned utility on an at-cost basis. FICC is comprised of two separate divisions, the Government Securities Division ("FICC/GSD") and the Mortgage-Backed Securities Division ("FICC/MBSD"). Each Division has its own set of rules and membership.

FICC/GSD is the sole clearing agency in the United States acting as a central counterparty for cash-settled U.S.

⁵ See 15 U.S.C. 78q-1(b)(3).

⁶ Securities Exchange Act Release No. 23929 (December 23, 1986), 52 FR 373-01 (January 5, 1987) (File No. 600-22).

⁷ Securities Exchange Act Release No. 24046 (February 2, 1987), 52 FR 4218-01 (February 10, 1987) (File No. 600-22).

⁸ Securities Exchange Act Release No. 25957 (August 2, 1988), 53 FR 29537-01 (August 2, 1988) (File No. 600-19); Securities Exchange Act Release No. 27079 (July 31, 1989), 54 FR 32412-01 (August 7, 1989) (File No. 600-22); Securities Exchange Act Release No. 28492 (September 28, 1990), 55 FR 41148-03 (October 9, 1990) (File No. 600-19); Securities Exchange Act Release No. 29751 (September 27, 1991), 56 FR 50602-01 (October 7, 1991) (File Nos. 600-19 and 600-22); Securities Exchange Act Release No. 31750 (January 21, 1993), 58 FR 6424-02 (January 28, 1993) (File Nos. 600-19 and 600-22) (noting that, "[d]ue to an inadvertent administrative error by MBSCC," MBSCC failed to request an extension of its temporary registration prior to the expiration of its last extension on September 30, 1992); Securities Exchange Act Release No. 33348 (December 15, 1993), 58 FR 68183-01 (December 23, 1993) (File Nos. 600-19 and 600-22); Securities Exchange Act Release No. 35132 (December 21, 1994), 59 FR 67743-01 (December 30, 1994) (File Nos. 600-19 and 600-22); Securities Exchange Act Release No. 37372 (June 26, 1996), 61 FR 35281-02 (July 5, 1996) (File No. 600-22); Securities Exchange Act Release No. 38784 (June 27, 1997), 62 FR 36587-01 (July 8, 1997) (File No. 600-22); Securities Exchange Act Release No. 39776 (March 20, 1998), 63 FR 14740-02 (March 26, 1998) (File No. 600-22); Securities Exchange Act Release No. 42568 (March 23, 2000), 65 FR 16980-01 (March 30, 2000) (File No. 600-22); Securities Exchange Act Release No. 44089 (March 21, 2001), 66 FR 16961-02 (March 28, 2001) (File No. 600-22); Securities Exchange Act Release No. 44831 (September 21, 2001), 66 FR 49728-01 (September 28, 2001) (File No. 600-22); Securities Exchange Act Release No. 45607 (March 20, 2002), 67 FR 14755-01 (March 27, 2002) (File No. 600-22); Securities Exchange Act Release No. 46136 (June 27, 2002), 67 FR 44655-01 (July 3, 2002) (File No. 600-22).

⁹ Securities Exchange Act Release No. 25129 (November 16, 1987), 52 FR 44659-01 (November 20, 1987) (File No. 600-23).

¹⁰ Securities Exchange Act Release No. 25740 (May 24, 1988), 53 FR 19839 (May 24, 1987) (File No. 600-23).

¹¹ Securities Exchange Act Release No. 29236 (May 24, 1991), 56 FR 24852 (May 31, 1991) (File

No. 600-23); Securities Exchange Act Release No. 32385 (June 3, 1993), 58 FR 32405 (June 9, 1993) (File No. 600-23); Securities Exchange Act Release No. 35787 (May 31, 1995), 60 FR 30324 (June 8, 1995) (File No. 600-23); Securities Exchange Act Release No. 36508 (November 27, 1995), 60 FR 61719 (December 1, 1995) (File No. 600-23); Securities Exchange Act Release No. 37983 (November 25, 1996), 61 FR 64183 (December 3, 1996) (File No. 600-23); Securities Exchange Act Release No. 38698 (May 30, 1997), 62 FR 30911 (June 5, 1997) (File No. 600-23); Securities Exchange Act Release No. 39696 (February 24, 1998), 63 FR 10253 (March 2, 1998) (File No. 600-23); Securities Exchange Act Release No. 41104 (February 24, 1999), 64 FR 10510 (March 4, 1999) (File No. 600-23); Securities Exchange Act Release No. 41805 (August 27, 1999), 64 FR 48682 (September 7, 1999) (File No. 600-23); Securities Exchange Act Release No. 42335 (January 12, 2000), 65 FR 3509 (January 21, 2000) (File No. 600-23); Securities Exchange Act Release No. 43089 (July 28, 2000), 65 FR 48032 (August 4, 2000) (File No. 600-23); Securities Exchange Act Release No. 43900 (January 29, 2001), 66 FR 8988 (February 5, 2001) (File No. 600-23); Securities Exchange Act Release No. 44553 (July 13, 2001), 66 FR 37714 (July 19, 2001) (File No. 600-23); Securities Exchange Act Release No. 45164 (December 18, 2001), 66 FR 66957 (December 27, 2001) (File No. 600-23); and Securities Exchange Act Release No. 46135 (June 27, 2002), 67 FR 44655 (July 3, 2002) (File No. 600-23).

¹² See Letter from Jeffrey F. Ingber, Managing Director, General Counsel and Secretary, FICC (Nov. 15, 2002).

¹³ Securities Exchange Act Release No. 47015 (December 17, 2002), 67 FR 78531 (December 24, 2002) (File Nos. SR-GSCC-2002-07 and SR-MBSCC-2002-01).

¹⁴ Pursuant to Rule 17Ab2-1(c)(1), the Commission may grant registration to a clearing agency while exempting it from one or more of the requirements of paragraphs (A) through (I) of section 17A(b)(3) of the Act. See 17 C.F.R. 240.17Ab2-1(c)(1).

¹⁵ Securities Exchange Act Release No. 24046 (February 2, 1987), 52 FR 4218-01 (February 10, 1987) (File No. 600-22); Securities Exchange Act Release No. 25740 (May 24, 1988), 53 FR 19839-01 (May 31, 1988) (File No. 600-23).

¹⁶ Securities Exchange Act Release No. 25740 (May 24, 1988), 53 FR 19839-01 (May 31, 1988) (File No. 600-23).

¹⁷ Securities Exchange Act Release No. 26729 (April 14, 1989), 54 FR 16438-G-01 (April 24, 1989) (SR-MBSS-89-2) (lifting MBSCC's exemption from the Act's fair representation requirements); Securities Exchange Act Release No. 36508 (November 27, 1995), 60 FR 61719-02 (December 1, 1995) (File No. 600-23) (lifting GSCC's exemption from the Act's participation requirements); Securities Exchange Act Release No. 39372 (November 28, 1997), 62 FR 64415 (December 5, 1997) (SR-GSCC-97-01) (lifting GSCC's exemption from the Act's fair representation requirements).

¹⁸ Securities Exchange Act Release No. 48116 (July 1, 2003), 68 FR 41031 (July 9, 2003) (File No. 600-23); Securities Exchange Act Release No. 49940 (June 29, 2004), 69 FR 40695 (July 5, 2004) (File No. 600-23); Securities Exchange Act Release No. 51911 (June 23, 2005), 70 FR 37878 (June 30, 2005) (File No. 600-23); Securities Exchange Act Release No. 54056 (June 28, 2006), 71 FR 38193 (July 5, 2006) (File No. 600-23); Securities Exchange Act Release No. 55920 (June 18, 2007), 72 FR 35270 (June 27, 2007) (File No. 600-23); and Securities Exchange Act Release No. 57949 (June 11, 2008), 73 FR 34808 (June 18, 2008) (File No. 600-23).

¹⁹ Securities Exchange Act Release No. 64707 (June 20, 2011), 76 FR 37165 (June 24, 2011) (File No. 600-23).

²⁰ Securities Exchange Act Release No. 66550 (March 9, 2012), 77 FR 15155 (March 14, 2012) (File No. 600-23).

²¹ Securities Exchange Act Release No. 64707 (June 20, 2011), 76 FR 37165 (June 24, 2011) (File No. 600-23).

Government and agency securities. FICC/GSD provides clearing, netting, settlement, risk management, central counterparty services and a guarantee of trade completion for the following securities: (i) U.S. Treasury bills, notes, bonds, Treasury inflation-protected securities (TIPS), and Separate Trading of Registered Interest and Principal Securities (STRIPS), and (ii) Federal agency notes, bonds and zero-coupon securities that are book-entry, Fedwire eligible and non-mortgage backed. FICC/GSD accepts buy-sell transactions, repurchase and reverse repurchase agreement transactions (repos), and Treasury auction purchases in several types of U.S. Government securities.

FICC/MBSD is the only centralized clearing facility in the non-private label mortgage-backed securities market. FICC/MBSD provides clearing, netting, settlement, risk management, pool notification, central counterparty services and a guarantee of trade completion for pass-through mortgage-backed securities issued by the Government National Mortgage Association ("Ginnie Mae"), the Federal Home Loan Mortgage Corporation ("Freddie Mac") and the Federal National Mortgage Association ("Fannie Mae"). FICC/MBSD also processes options trades for "to-be-announced" transactions.

Additional information concerning FICC and its operations may be found in the schedule and non-confidential exhibits appended to FICC's amended Form CA-1.²² Schedule A to FICC's amended Form CA-1 includes a description of the risk management procedures utilized by FICC/GSD and FICC/MBSD. Exhibits A and B provide a list of FICC's Board of Directors and its officers and senior managers, respectively. Exhibit C includes both a narrative and graphical depiction of FICC's organizational structure, and Exhibit E includes copies of the current rulebooks for both FICC/GSD and FICC/MBSD, along with copies of FICC's governing documents. Finally, Exhibit J provides a description of FICC's services and functions.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning FICC's amended Form CA-1, including whether FICC has satisfied the Act's requirements for registration. 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 email to rule-comments@sec.gov. Please include File Number 600-23 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 600-23. 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 of submission. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the amended Form CA-1, all subsequent amendments, all written statements with respect to FICC's amended Form CA-1 that are filed with the Commission, and all written communications relating to the amended Form CA-1 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 Web site 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 10:00 a.m. and 3:00 p.m.

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 600-23 and should be submitted on or before June 3, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²³

Kevin M. O'Neill,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-69363; File No. SR-NASDAQ-2012-117]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Designation of Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change With Respect to INAV Pegged Orders for ETFs

April 11, 2013.

On October 2, 2012, The NASDAQ Stock Market LLC ("NASDAQ" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to amend NASDAQ Rule 4751(f)(4) to include a new Intraday Net Asset Value ("INAV") Pegged Order for Exchange-Traded Funds ("ETFs") where the component stocks underlying the ETFs are U.S. Component Stocks as defined by Rule 5705(a)(1)(C) and 5705(b)(1)(D). The proposed rule change was published for comment in the **Federal Register** on October 18, 2012.³ The Commission received one comment letter on the proposal.⁴ On November 21, 2012, pursuant to Section 19(b)(2) of the Act,⁵ the Commission extended the time period for Commission action on the proposed rule change to January 16, 2013.⁶ The Commission thereafter received one response letter from the Exchange.⁷ On January 16, 2013, the Commission instituted proceedings to determine whether to approve or disapprove the proposed rule change.⁸ The Commission thereafter received one comment letter and one response letter from the Exchange.⁹

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 68042 (Oct. 12, 2012), 77 FR 64167.

⁴ See Letter from Dorothy Donohue, Deputy General Counsel, Investment Company Institute, dated Nov. 8, 2012.

⁵ 15 U.S.C. 78s(b)(2).

⁶ See Securities Exchange Act Release No. 68279, 77 FR 70857 (Nov. 27, 2012).

⁷ See Letter from Stephen Matthews, Senior Associate General Counsel, NASDAQ OMX, dated Jan. 15, 2013.

⁸ See Securities Exchange Act Release No. 68672, 78 FR 4949 (Jan. 23, 2013).

⁹ See Letter from Dorothy Donohue, Deputy General Counsel, Investment Company Institute, dated Feb. 13, 2013. See Letter from Jeffrey S. Davis, Vice President and Deputy General Counsel, NASDAQ OMX, dated Feb. 27, 2013.

²² FICC's amended Form CA-1, including the exhibits, attachments and the schedule referenced above, is available online at www.sec.gov/rules/other.shtml, as well as at the Commission's Public Reference Room.

²³ 17 CFR 200.30-3(a)(12).