

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

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

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57596; File No. SR-FICC-2007-11]

### Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule To Modify the Fee Structure of the Government Securities Division Rules Regarding GCF Repo Transactions and the Fee Structure of the Mortgage-Backed Securities Division Rule Regarding Trade-for-Trade and Settlement Balance Order Processing Fees

April 1, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on December 31, 2007, 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. FICC filed the proposal pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>2</sup> and Rule 19b-4(f)(2)<sup>3</sup> thereunder so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the 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 rule change is to modify the fee structure of the Government Securities Division ("GSD") rules regarding GCF Repo Transactions and the fee structure of the Mortgage-Backed Securities Division ("MBSD") rules regarding Trade-for-Trade and Settlement Balance Order ("SBO") processing fees.

#### 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>4</sup>

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

Currently, the GSD fee schedule indicates the charge for all requests to modify or cancel a side of a trade or repo transaction, including CGF Repo Transactions, is 25 cents per request. To reflect current practice, FICC is proposing to change the charge for requests to modify or cancel a side of a GCF Repo Transaction to 5 cents per request.

FICC is also proposing to reduce the MBSD trade processing fee charged to dealers engaging in both Trade-for-Trade and SBO processing to align the fees with the actual costs to deliver the services. FICC is proposing to reduce the fee for Trade-for-Trade Trade Creates from \$2.25 to \$0.50. The fees for SBO Trade Creates are categorized by volume of Trade Creates and are based on the par value per million per month ("MM"). FICC is proposing to reduce the fee for SBO Trade Creates as follows: (i) Between 1-2,500 Trade Creates, from \$1.68/MM to \$1.58/MM; (ii) between 2,501-5,000 Trade Creates, from \$1.56/MM to \$1.46/MM; (iii) between 5,001-7,500 Trade Creates, from \$1.43/MM to \$1.33/MM; (iv) between 7,501-10,000 Trade Creates, from \$1.35/MM to \$1.25/MM; (v) between 10,001-12,500 Trade Creates, from \$1.22/MM to \$1.12/MM; and (vi) 12,501 and over Trade Creates, from \$1.09/MM to \$0.99/MM.

The proposed rule change is consistent with Section 17A of the Act,<sup>5</sup> as amended, because it reduces a FICC fee and thereby provides for the equitable allocation of fees among its participants.

#### (B) Self-Regulatory Organization's Statement on Burden on Competition

FICC does not believe that the proposed rule change will have any impact or impose any burden on competition.

<sup>4</sup> The Commission has modified the text of the summaries prepared by FICC.

<sup>5</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

Written comments relating to the proposed rule change have not yet 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 proposed rule change has become effective upon filing pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>6</sup> and Rule 19b-4(f)(2)<sup>7</sup> thereunder because the proposed rule change changes a fee imposed by FICC applicable only to members or participants. At any time within sixty days of the filing of the proposed 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-2007-11 on the subject line.

##### Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-FICC-2007-11. 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

<sup>10</sup> 17 CFR 200.30-3(a)(12).

<sup>11</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>3</sup> 17 CFR 240.19b-4(f)(2).

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>7</sup> 17 CFR 240.19b-4(f)(2).

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/downloads/legal/rule\\_filings/2007/ficc/2007-11.pdf](http://www.dtcc.com/downloads/legal/rule_filings/2007/ficc/2007-11.pdf). 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-2007-11 and should be submitted on or before April 28, 2008.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.<sup>8</sup>

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

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57592; File No. SR-NYSE-2008-23]

### Self-Regulatory Organizations; New York Stock Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to NYSE Rule 104.10 To Extend the Duration of the Pilot Program Applicable to Conditional Transactions in All Securities to June 30, 2008

April 1, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on March 27, 2008, the New York Stock Exchange, LLC ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the NYSE. The NYSE has designated the

proposed rule change as a "non-controversial" rule change pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposed rule change effective upon filing with the Commission. 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 NYSE is proposing to amend NYSE Rule 104.10 to extend the duration of the pilot program applicable to Conditional Transactions as defined in Rule 104.10(6)(i) in all securities to June 30, 2008. The text of the proposed rule change is available at NYSE, at <http://www.nyse.com>, 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, the NYSE 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 NYSE 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

The NYSE is proposing to amend NYSE Rule 104.10 to extend the duration of the pilot program applicable to Conditional Transactions as defined in Rule 104.10(6)(i) in all securities for an additional three months until June 30, 2008.

On October 26, 2007, the Commission approved the ability of NYSE specialists to effect Conditional Transactions pursuant to NYSE Rule 104.10(6) in all securities traded on the NYSE to operate as a pilot through March 31, 2008 (the "Conditional Transaction Pilot").<sup>5</sup>

###### (a) Current Conditional Transaction Pilot

Conditional Transactions are specialists' transactions that establish or increase a position and reach across the

market to trade as the contra-side to the Exchange published bid or offer. Under the current Conditional Transaction Pilot, NYSE specialists are allowed to effect Conditional Transactions in all securities traded on the NYSE until March 31, 2008.

When a specialist effects a Conditional Transaction he or she has obligations to re-enter the market on the opposite side from which the specialist effected his or her Conditional Transaction pursuant to the rule. Specifically, pursuant to NYSE Rule 104.10(6)(ii) "appropriate" re-entry means "re-entry on the opposite side of the market at or before the price participation point or the 'PPP.'"<sup>6</sup> Depending on the type of Conditional Transaction, a specialist's obligation to re-enter may be immediate or subject to the same re-entry conditions of Non-Conditional Transactions.<sup>7</sup> Conditional

<sup>6</sup> NYSE Rule 104.10(6)(iii)(a) provides that the PPP identifies the price at or before which a specialist is expected to re-enter the market after effecting a Conditional Transaction. PPPs are only minimum guidelines and compliance with them does not guarantee that a specialist is meeting its obligations. The Exchange issued guidance regarding PPPs in January 2007. See NYSE Member Education Bulletin 2007-1 (January 18, 2007).

<sup>7</sup> NYSE Rule 104.10(6)(iii)(c) provides that immediate re-entry is required after the following Conditional Transactions:

As a condition of operating the Conditional Transaction Pilot, the Exchange committed to providing the Commission with data related to specialist executions of Conditional Transactions. The data includes the daily Consolidated Tape volume in shares, daily number of trades; daily high-low volatility in basis points and daily close price in dollars.

(I) A purchase that (1) reaches across the market to trade with an Exchange published offer that is above the last differently priced trade on the Exchange and above the last differently priced published offer on the Exchange, (2) is 10,000 shares or more or has a market value of \$200,000 or more, and (3) exceeds 50% of the published offer size.

(II) A sale that (1) reaches across the market to trade with an Exchange published bid that is below the last differently priced trade on the Exchange and below the last differently priced published bid on the Exchange, (2) is 10,000 shares or more or has a market value of \$200,000 or more, and (3) exceeds 50% of the published bid size. (Emphasis added.)

Moreover, pursuant to current NYSE Rule 104.10(6)(iv) Conditional Transactions that involve (a) a specialist's purchase from the Exchange published offer that is priced above the last differently-priced trade on the Exchange or above the last differently-priced published offer on the Exchange and (b) a specialist's sale to the Exchange published bid that is priced below the last differently-priced trade on the Exchange or below the last differently-priced published bid on the Exchange are subject to the re-entry requirements for Non-Conditional Transactions pursuant to Rule 104.10(5)(i)(a)(II)(c), which provides:

Re-entry Obligation Following Non-Conditional Transactions—The specialist's obligation to maintain a fair and orderly market may require re-entry on the opposite side of the market trend after effecting one or more Non-Conditional Transactions. Such re-entry transactions should be commensurate with the size of the Non-Conditional

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

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

<sup>5</sup> See Securities Exchange Act Release No. 56711 (October 26, 2007), 72 FR 62504 (November 5, 2007) (SR-NYSE-2007-83).

<sup>8</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.