are equitable because they are open to all similarly situated ETP Holders on an equal basis and provide credits that are reasonably related to the value to an exchange's market quality associated with higher volumes. For example, the proposed increase to $0.0030 for orders in Tape B Securities routed outside the Book to any away market centers will align such fee to Tape A and Tape C routing fees to any away market center other than NYSE. The Exchange further believes that the proposed Tape A, Tape B, and Tape C Step Up Tiers are reasonable, equitable and not unfairly discriminatory because the Exchange has previously implemented two step up tiers: Step Up Tier 1 and Step Up Tier 2. With respect to shares priced under $1.00, the Exchange notes that the proposal to increase the charge to 0.2% of the total dollar value of the execution for these securities for ETP Holders accessing liquidity is consistent with the limitations of Rule 610(c) of Regulation NMS under the Act.

As stated above, the Exchange believes that the new Step Up Tiers, the new Investor Tier 2, and the revised Investor Tier 3 may incentivize ETP Holders to increase the orders sent directly to the Exchange and therefore provide liquidity that supports the quality of price discovery and promotes market transparency. For example, the increased fee with respect to MPL orders that take liquidity in Tape A, Tape B, and Tape C Securities will provide an added incentive to ETP Holders and Market Makers to provide displayed liquidity on the Exchange for such orders.

In addition to the new Tiers, the Exchange believes that the amendments to the Tracking Order Tiers would benefit ETP Holders whose increased order flow provides meaningful added levels of liquidity, but may not be eligible for the current Tracking Order Tier thresholds, thereby contributing to the depth and market quality of the Book.

The Exchange believes that by recalibrating the fees for routing and taking liquidity and credits for providing liquidity it will attract additional order flow and liquidity to the Exchange, thereby contributing to price discovery on the Exchange and benefiting investors generally.

The Exchange also believes that the technical amendments proposed herein would better assist member organizations and others that view the Fee Schedule in determining the fees and credits that are applicable on the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[18] and subparagraph (f)(2) of Rule 19b–4 thereunder.[19] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend 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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or 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 (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEARCA–2012–17 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–NYSEARCA–2012–17. 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 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 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 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. 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–NYSEARCA–2012–17 and should be submitted on or before April 6, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–6383 Filed 3–15–12; 8:45 am]

BILLING CODE 8011–01–P

[18] 15 U.S.C. 78s(b)(3)(A)(ii).

[19] 17 CFR 240.19b–4(f)(2).

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66574; File No. SR–FICC–2012–02]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing of Proposed Rule Change To Remove Functionality in the Government Securities Division's Rules That Is No Longer Utilized by Participants

March 12, 2012.

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 February 29, 2012, the Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') the proposed change as

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

described in Items I and II below, which Items have been prepared primarily by FICC. The Commission is publishing this notice to solicit comments on the proposed change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of modifications to certain rules of the Government Securities Division (''GSD'') of the Fixed Income Clearing Corporation (''FICC'') that refer to functions or classifications that are either technologically obsolete or no longer used by participants.

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.[3]

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

The purpose of this filing is to revise the GSD rules to eliminate references to functions or classifications that are either technologically obsolete or no longer utilized by GSD's participants. Reflected below are descriptions of the proposed changes to the rules.

1. ''Non-Conversion Participants''/ ''Conversion Participants''

When first implemented, the DVP System required all participants that submitted when issued trades to resubmit those trades with final money calculations on the night of Auction Date, after the Treasury Auction results were announced. Subsequent to the initial implementation, enhancements were incorporated such that the DVP System recalculated trades (repriced) based on auction results. FICC also incorporated an option whereby participants could decide if they wanted to resubmit their trades (participants who elected this option were known as ''Non-Conversion Participants'') or take FICC's repricing notification (participants who elected this option were known as ''Conversion Participants''). With the implementation of Interactive Messaging in 2000, the few remaining Non-Conversion Participants agreed to take FICC's calculations, rather than resubmit their trades to FICC. As such, FICC proposes to remove references in the rules to Non-Conversion Participants. Given that all participants who submit when-issued transactions for matching/netting are subject to accepting FICC's calculations for their trades based on Treasury Auction Results, the proposed rule changes replace references to ''Conversion Participants'' with ''Participants.''

2. Auction Priority Delivery Requests and Customer Delivery Requests (CDRs)

Auction Priority Delivery Requests, also known as Customer Delivery Requests (CDRs), were originally built for FICC's batch file transfer, which was the initial proprietary method that participants used to submit trade activity to FICC. This functionality allowed the dealer to instruct FICC to withhold certain auction trades from the net to ensure that a priority client received their auction allotment so the trade could not be netted out during FICC's end of day netting process. However, when Interactive Messaging was implemented in 2000, this instruction type was not supported as it was no longer used. As a result, FICC proposes to remove references in the rules to Auction Priority Delivery Requests and Customer Delivery Requests (CDRs).

3. Repo Substitution Criteria

GSD initially provided optional fields for Repo Substitution Criteria for trade submissions. However, over the years, participants generally have not used these fields. Because the fields were provided as an informational courtesy that has not been used by participants, the new system will not contain them. From a rules perspective this entails the deletion of references to those fields in related schedule.

In addition to the above-referenced changes which relate to the DVP System, FICC proposes to make the following additional technical corrections to the GSD rules:

—Terminal interfaces and video display terminals are currently referenced in the rules. The terminals became obsolete when FICC replaced them with a web browser interface. Because the terminals are no longer in existence, FICC proposes to remove references to these methods from the GSD rules.

—Currently, the ''Schedule of Required and Other Data Submission Items from GCF Repo Transactions'' refers to ''Reverse dealer Exec. Id'' and a ''Repo dealer Exec Id.'' When FICC began using the GSD RTTM web format, these fields were eliminated because they did not have any significance for GCF repo trades. As a result, FICC proposes to remove these references from the rules.

FICC believes the proposed change is consistent with Section 17A of the Act and the rules and regulations thereunder because it facilitates the prompt and accurate clearance and settlement of securities by ensuring that FICC's rules are accurate.

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

FICC does not believe that the proposed rule change would impose any burden on competition.

(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

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 the proposed rule change; or

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

Electronic Comments

- Use the Commissions Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–FICC–2012–02 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.

[3] The Commission has modified the text of the summaries prepared by FICC.

All submissions should refer to File Number SR–FICC–2012–02. 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 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 Web site viewing and printing 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 filing 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/2012/ficc/SR_FICC_2012_02.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–2012–02 and should be submitted on or before April 6, 2012.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[4]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–6384 Filed 3–15–12; 8:45 am]

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[4] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66575; File No. SR–FINRA–2011–067]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Approving a Proposed Rule Change Amending FINRA Rules 13201 (Statutory Employment Discrimination Claims) and 2263 (Arbitration Disclosure to Associated Persons Signing or Acknowledging Form U4) Relating to Whistleblower Disputes in Arbitration

March 12, 2012.

I. Introduction

On November 21, 2011, the Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'' or ''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend FINRA Rule 13201 of the Code of Arbitration Procedure for Industry Disputes (''Industry Code'') to align the rule with statutes that invalidate predispute arbitration agreements for whistleblower disputes. Specifically, the proposed rule change would amend Rule 13201 to add a new provision to provide that a dispute arising under a whistleblower statute that prohibits the use of predispute arbitration agreements is not required to be arbitrated under the Industry Code. The proposed rule change would also make a conforming amendment to FINRA Rule 2263. The proposed rule change was published for comment in the **Federal Register** on December 12, 2011.[3] The Commission received one comment letter, from the Securities Industry and Financial Markets Association (''SIFMA''), on the proposed rule change,[4] and a response to SIFMA's comments from FINRA.[5] The text of the proposed rule change and FINRA's Response Letter are available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA, on the Commission's Web site at *http://www.sec.gov,* and at the Commission's Public Reference Room.

This order approves the proposed rule change.

II. Purpose

The proposed rule change would amend FINRA Rule 13201 (Statutory Employment Discrimination Claims) of the Industry Code, and FINRA Rule 2263 (Arbitration Disclosure to Associated Persons Signing or Acknowledging Form U4), to align the rules with statutes that invalidate predispute arbitration agreements for whistleblower disputes.

The Dodd-Frank Wall Street Reform and Consumer Protection Act (''Dodd-Frank Act'') [6] amended the Sarbanes-Oxley Act of 2002 (''SOX'') [7] by adding a new paragraph (e) to 18 U.S.C. 1514A (Nonenforceability of Certain Provisions Waiving Rights and Remedies or Requiring Arbitration of Disputes) [8] to provide that:

(1) *Waiver of Rights and Remedies*—The rights and remedies provided for in this section may not be waived by any agreement, policy form, or condition of employment, including by a predispute arbitration agreement.

(2) *Predispute Arbitration Agreements*—No predispute arbitration agreement shall be valid or enforceable, if the agreement requires arbitration of a dispute arising under this section.

Prior to the Dodd-Frank Act, it was FINRA staff's articulated position that parties were required to arbitrate SOX whistleblower claims under the Industry Code.[9]

In light of the changes set forth in the Dodd-Frank Act that invalidate predispute arbitration agreements in the case of SOX whistleblower disputes, the proposed rule change would amend FINRA Rule 13201 of the Industry Code to make clear that parties are not required to arbitrate SOX whistleblower disputes, superseding any existing guidance to the contrary. While FINRA's main impetus for the proposed rule change was the need to update its staff's stated position on SOX whistleblower claims, FINRA proposed to make the rule text broad enough to cover any statutes that prohibit predispute arbitration agreements for whistleblower disputes.[10]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Act Release No. 65896 (Dec. 6, 2011) (''Notice'').

[4] *See* letter from Kevin M. Carroll, Managing Director and Associate General Counsel, SIFMA, dated January 3, 2012 (''SIFMA Letter'').

[5] *See* letter from Margo A. Hassan, Assistant Chief Counsel, FINRA, to Elizabeth M. Murphy, Secretary, Commission, dated March 5, 2012 (''Response Letter'').

[6] *See* Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203 (2010).

[7] Sarbanes-Oxley Act of 2002, Public Law 107–204 (2002).

[8] *See* Dodd-Frank Act Section 922(c)(2).

[9] *See Arbitrability of Sarbanes-Oxley Whistleblower Claims* by Laurence S. Moy, Pearl Zuchlewski, Linda A. Neilan and Katherine Blostein, *The Neutral Corner* (Volume 1—2008).

[10] The Dodd-Frank Act also invalidated predispute arbitration agreements in other whistleblower statutes, including, for example, 7