

with its ongoing construction program, to pay scheduled maturities and/or refundings of its securities, to repay short-term indebtedness to the extent outstanding and for other general corporate purposes.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Margaret H. McFarland,**  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51579; File No. SR-FICC-2005-08]

### Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Expand the Types of Securities Eligible for FICC's GCF Repo Service to Include Treasury-Inflation Protected Securities

April 20, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on April 8, 2005, 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

FICC is seeking to amend the rules of its Government Securities Division ("GSD") to expand the types of securities eligible for the GCF Repo service to include Treasury Inflation-Protected Securities ("TIPS"), a Treasury security whose principal amount is adjusted for inflation.

#### 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

The GCF Repo service is a significant alternative financing vehicle to the delivery versus payment and tri-party repo markets. Currently, most Treasury securities, non-mortgage-backed agency securities, and fixed and adjustable rate mortgage-backed securities are eligible for this service.<sup>3</sup> FICC is expanding its rules to also make eligible TIPS.

When the GCF Repo service was implemented, TIPS were not generally accepted as collateral in tri-party repo arrangements and therefore were not included in the service. Since then, TIPS have gained considerable acceptance in the marketplace for tri-party and other trading practices. TIPS are currently netting eligible for the GSD's delivery versus payment service, and FICC has received requests from members to make TIPS eligible for the GCF Repo service. FICC has received an endorsement from the Funding Practices Committee of The Bond Market Association with respect to this proposal.<sup>4</sup>

TIPS, which are issued in terms of 5, 10, and 20 years, have the same basic characteristics of other Treasury securities and are generally considered to be of the same low risk level.<sup>5</sup> FICC has determined that with respect to its risk management processes, TIPS would be subject to the same maturity ranges, offset classes, margin rates, and disallowance factors as are other Treasury securities.<sup>6</sup>

For purposes of GSD Rule 20 (Special Provisions for GCF Repo Transactions), general references to U.S. Treasury bills,

notes, or bonds do not include TIPS.<sup>7</sup> Therefore, TIPS could not be used within the GCF Repo service to satisfy obligations to post or return any other type of collateral.<sup>8</sup>

FICC believes the proposed rule change is consistent with the requirements of Section 17A of the Act<sup>9</sup> and the rules and regulations thereunder applicable to FICC because it allows FICC to expand an important service that provides members with a continuing ability to engage in general collateral trading activity in a safe and efficient manner. As such, the proposed rule facilitates the prompt and accurate clearance and settlement of securities transactions and assures the safeguarding of securities and funds which are in the custody or control of FICC or for which it is responsible.

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

FICC does not believe that the proposed rule change will have an impact or 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 were not 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) of the Act<sup>10</sup> and Rule 19b-4(f)(4)<sup>11</sup> thereunder because the proposed rule does not significantly affect the respective rights or obligations of the clearing agency or persons using the service and does not adversely affect the safeguarding of securities or funds in the custody or control of FICC or for which it is responsible. The rule change will be implemented on the date FICC lists the Generic CUSIP number for TIPS as a "GCF Repo Security" on its master file of eligible securities, which date will be announced to members by

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

<sup>3</sup> Securities Exchange Act Release Nos. 40623 (October 30, 1998), 63 FR 59831 (November 5, 1998) [File No. SR-GSCC-98-02] and 42996 (June 30, 2000), 65 FR 42740 [File No. SR-GSCC-00-04].

<sup>4</sup> FICC has obtained the Generic CUSIP Number necessary for the inclusion of TIPS as a "GCF Repo Security" on its master file of eligible securities. Upon effectiveness of this proposal, FICC will effectuate the proposed change by listing this Generic CUSIP Number on the master file. The date of such listing will be announced to members by Important Notice.

<sup>5</sup> TIPS are issued through the auction process, are direct obligations of the U.S. government, and are backed by its full faith and credit.

<sup>6</sup> As such, references to "GCF Treasury Securities" or "GCF Treasuries" in the Margin Factor and Offset Class Schedules and Disallowance Percentage Schedules that are annexed to the GSD Rules will include TIPS upon effectiveness of this filing.

<sup>7</sup> The proposed rule change also amends GSD's Rule 20 to make clear that reference to "U.S. Treasury bills, notes or bonds" therein shall not include Treasury Inflation-Protected Securities.

<sup>8</sup> However, as is consistent with the existing GCF Repo provisions, U.S. Treasury bills, notes, or bonds (or cash) may generally be used to satisfy obligations to post or return other collateral types and therefore could be used to satisfy any such obligations involving TIPS.

<sup>9</sup> 15 U.S.C. 78q-1.

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b-4(f)(4).

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

Important Notice. At any time within sixty days of the filing of the proposed rule change, the Commission may summarily abrogate the 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-2005-08 on the subject line.

##### *Paper Comments*

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number SR-FICC-2005-08. 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, 450 Fifth Street, NW., Washington, DC 20549. 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.ficc.com>. 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-2005-08 and should be submitted on or before May 17, 2005.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>12</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51583; File No. SR-NASD-2005-042]

### Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish Fees for Non-Members Using the New Nasdaq Workstation

April 20, 2005.

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 March 30, 2005, the National Association of Securities Dealers, Inc. ("NASD"), through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. Nasdaq has filed the proposal 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 immediately upon filing. 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 the Substance of the Proposed Rule Change

Nasdaq proposes to establish fees for non-members using the new Nasdaq Workstation. Nasdaq will begin making the Nasdaq Workstation available to users on or about May 2, 2005.

The text of the proposed rule change is available on the NASD's Web site (<http://www.nasd.com>), at the NASD's Office of the Secretary, and at the Commission's Public Reference Room.

<sup>12</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.

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

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

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

In its filing with the Commission, Nasdaq 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. Nasdaq 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 announced in recent Nasdaq Head Trader alerts,<sup>5</sup> Nasdaq is replacing its current front-end workstation, the Nasdaq Workstation II® (the "NWII"), with a new front-end offering. The new Nasdaq Workstation<sup>SM</sup> will be available through a dedicated high-bandwidth circuit or an internet broadband connection, but in contrast to the NWII, the new Nasdaq Workstation will not require use of a service delivery platform ("SDP"), a hardware unit located at the subscriber's premises. Nasdaq believes the elimination of SDPs would result in substantial cost savings to users of the new Nasdaq Workstation in comparison with the NWII. The main version of the Nasdaq Workstation will be referred to as "Nasdaq Workstation Trader," and can be used by members for order and quotation entry, trade reporting, and outbound order routing.<sup>6</sup>

In SR-NASD-2005-041,<sup>7</sup> which is being filed on an immediately effective basis, Nasdaq has proposed applying the fee schedule described below to members using the new Workstation. In this filing, Nasdaq is proposing applying the same fee schedule to non-members that subscribe to this service. The non-members that currently subscribe to the NWII are service bureaus that use the NWII to monitor information supplied over NWII terminals for purposes of comparison with data supplied through their own services. Non-members are not permitted to use the NWII, and will

<sup>5</sup> See Nasdaq Head Trader Alert 2005-019 (March 1, 2005) and Nasdaq Head Trader Alert 2005-009 (January 25, 2005) ([http://www.nasdaqtrader.com/dynamic/newsindex/headtraderalerts\\_2005.stm](http://www.nasdaqtrader.com/dynamic/newsindex/headtraderalerts_2005.stm)) and Nasdaq Head Trader Alert 2004-105 (July 30, 2004).

<sup>6</sup> Nasdaq's current Weblink ACT product, which is used for trade reporting, is being renamed "Nasdaq Workstation Post Trade."

<sup>7</sup> Securities Exchange Act Release No. 51581 (April 20, 2005).