



SECURITIES AND EXCHANGE COMMISSION
[Release No. 34-98882; File No. SR-FICC-2023-014]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Approving Proposed Rule Change Relating to the GSD and MBSD Schedules of Haircuts for Eligible Clearing Fund Securities

November 8, 2023.

I. INTRODUCTION

On September 22, 2023, Fixed Income Clearing Corporation (“FICC”) filed with the Securities and Exchange Commission (“Commission”) proposed rule change SR-FICC-2023-014 to modify the GSD and MBSD Schedules of Haircuts for Eligible Clearing Fund Securities, and to remove them and the related concentration limits from the respective Rules, and make other clarifying changes (“Proposed Rule Change”), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder.² The Proposed Rule Change was published for comment in the Federal Register on October 4, 2023.³ The Commission has received no comments on the Proposed Rule Change. For the reasons discussed below, the Commission is approving the Proposed Rule Change.⁴

II. BACKGROUND

FICC is a central counterparty (“CCP”), which means it interposes itself as the buyer to every seller and seller to every buyer for the financial transactions it clears.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 985925 (Sept. 28, 2023), 88 FR 68803 (Oct. 4, 2023) (File No. SR-FICC-2023-014) (“Notice of Filing”).

⁴ Capitalized terms not defined herein are defined in the GSD Rulebook (“GSD Rules”), *available at* https://www.dtcc.com/~media/Files/Downloads/legal/rules/ficc_gov_rules.pdf, or the MBSD Rulebook (“MBSD Rules”), *available at* https://www.dtcc.com/~media/Files/Downloads/legal/rules/ficc_mbsd_rules.pdf.

FICC’s Government Securities Division (“GSD”) provides CCP services for the U.S. Government securities market, and FICC’s Mortgage Backed-Securities Division (“MBSD”) provides CCP services for the U.S. mortgage-backed securities markets.⁵ As such, FICC is exposed to the risk that one or more of its members may fail to make a payment or to deliver securities.

A key tool that FICC uses to manage its credit exposures to its members is the daily collection of margin (referred to as “Required Fund Deposit” in the GSD and MBSD Rules) from each member.⁶ The aggregated amount of all GSD and MBSD members’ margin constitutes the GSD Clearing Fund and MBSD Clearing Fund. The objective of the GSD and MBSD Clearing Funds is to mitigate potential losses to FICC associated with liquidating a member’s portfolio in the event FICC ceases to act for that member (hereinafter referred to as a “default”).⁷ FICC would be able to access the Clearing Fund should a defaulting member’s own margin be insufficient to satisfy losses to FICC caused by the liquidation of that member’s portfolio.

A member may provide its required margin in the form of cash or an open account indebtedness secured by Eligible Clearing Fund Securities.⁸ Eligible Clearing

⁵ GSD and MBSD maintain separate sets of rules, margin models, and clearing funds.

⁶ See GSD Rule 4 and MBSD Rule 4, *supra* note 4 (requiring members to make Required Fund Deposits to the GSD and MBSD Clearing Funds, as applicable, with the amount of each member’s deposit being determined by FICC in accordance with these rules).

⁷ The GSD Rules and MBSD Rules each identify when FICC may cease to act for a member and the types of actions FICC may take. For example, FICC may suspend a firm’s membership with FICC or prohibit or limit a member’s access to FICC’s services in the event that member defaults on a financial or other obligation to FICC. See GSD Rule 21 (Restrictions on Access to Services) and MBSD Rule 14 (Restrictions on Access to Services), *supra* note 4.

⁸ See GSD Rule 4, Section 3 (Form of Deposit) and MBSD Rule 4, Section 3 (Form of Deposit), *supra* note 4.

Fund Securities are defined to include certain agency, mortgage-backed, and Treasury securities.⁹ These securities are valued based on the prior Business Day's closing market price, less a haircut, and may be subject to a concentration limit.¹⁰ FICC states that haircuts are used to protect FICC and its members from price fluctuations, *i.e.*, if FICC is required to liquidate collateral of an insolvent member and such collateral is worth less at the time of liquidation than when it is pledged to FICC.¹¹ FICC also states that concentration limits are intended to reduce FICC's risk by limiting the percentage of certain types of Eligible Clearing Fund Securities pledged by members to secure the Clearing Fund deposits, because when a member's portfolio contains large net unsettled positions in a particular group of securities with a similar risk profile or in a particular asset type, such securities could present additional risk to FICC.¹²

Currently, collateral haircuts applicable to relevant security types and remaining maturity terms are specified as fixed percentages in the Schedule of Haircuts for Eligible Clearing Fund Securities in the GSD Rules and MBSD Rules.¹³ According to FICC and set forth in its internal risk management procedures, the sufficiency of collateral haircuts

⁹ See GSD Rule 1 and MBSD Rule 1 (defining what constitutes Eligible Clearing Fund Securities and the components thereof, which are Eligible Clearing Fund Agency Securities, Eligible Clearing Fund Mortgage-Backed Securities, and Eligible Clearing Fund Treasury Securities), *supra* note 4.

¹⁰ See GSD Rule 4, Section 3b and MBSD Rule 4, Section 3b, *supra* note 4 (referencing the applicability of haircuts and concentration limits to certain types of Eligible Clearing Fund Securities).

¹¹ Notice of Filing, *supra* note 3, 88 FR at 68804.

¹² *Id.*

¹³ See Schedule of Haircuts for Eligible Clearing Fund Securities in the GSD Rules and MBSD Rules, *supra* note 4. The Schedule of Haircuts for Eligible Clearing Fund Securities in the GSD Rules and MBSD Rules was last modified in 2011 in order to harmonize with the increased haircuts on clearing fund collateral at the National Securities Clearing Corporation, an affiliate of FICC. See Securities Exchange Act Release No. 64488 (May 13, 2011), 76 FR 29018 (May 19, 2011) (SR-FICC-2011-03).

is evaluated through use of back-tests, stress-tests and market observations.¹⁴

Specifically, FICC conducts daily backtesting analysis by comparing the collateral haircut for each member in simulated liquidations with the member's actual collateral held on deposit at FICC.¹⁵ FICC escalates any exceptions that it observes to assess the root cause and determine whether further analysis and/or review would be appropriate, taking into account whether a particular security may present inherent volatility and/or liquidity risks that could likely result in an erosion in the value of the security exceeding the applicable collateral haircut.¹⁶ On a quarterly basis, FICC reviews the composition of the Eligible Clearing Fund Securities that members have pledged to secure their Required Fund Deposits in order to assess the sufficiency of the collateral haircuts applied and whether any haircut changes would be needed, taking into account backtesting results, any instances where the simulated losses from available historical stress testing scenario dates have exceeded the collateral haircut values, and market conditions.¹⁷

In addition to collateral haircuts, FICC applies concentration limits to certain Eligible Clearing Fund Securities set forth in the GSD and MBSD Rules. Under these limits, no more than 20 percent of a member's Required Fund Deposit may be in the form of Eligible Clearing Fund Agency Securities that are of a single issuer and no member may post as eligible collateral Eligible Clearing Fund Agency Securities of which it is the issuer.¹⁸ In addition, any deposits of Eligible Clearing Fund Agency Securities or

¹⁴ Notice of Filing, *supra* note 3, 88 FR at 68804. FICC also filed excerpts from its internal market risk management procedures as Confidential Exhibit 3b to its filing.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.* at 68804-05.

¹⁸ GSD Rule 4, Section 3b(b) and MBSD Rule 4, Section 3c(b), *supra* note 4.

Eligible Clearing Fund Mortgage-Backed Securities in excess of 25 percent of a member's Required Fund Deposit will be subject to a haircut that is twice the amount of the percentage noted in the haircut schedule, and a member may deposit Eligible Clearing Fund Mortgage-Backed Securities of which it is the issuer, however such securities will be subject to a premium haircut, with the initial haircut being 14 percent, and if a member also exceeds the 25 percent concentration limit, the haircut shall be 21 percent.¹⁹

Changes to the collateral haircuts and concentration limits are subject to FICC's internal governance process.²⁰ According to FICC and based on its internal risk management procedures, if FICC determines that, based on the analyses that it performs, there is insufficient/excessive collateral haircut/concentration due to an identifiable cause that affected multiple members and such cause would likely persist based on FICC's assessment of market conditions, such outcome or result could cause FICC to amend the haircuts/concentration limits in the haircut schedule.²¹ If FICC determines that a change to the haircut schedule is warranted, it would document the recommendation and rationale for the change at the time of such determination and obtain approval from an executive director or above with a notice to the risk management committee.²² Before making adjustments to the haircut schedule, FICC measures the potential impact of such adjustments to ensure any impact is both necessary and appropriate.

III. DESCRIPTION OF THE PROPOSED RULE CHANGE

In the Notice of Filing, FICC states that it has observed that under volatile market conditions with elevated frequency and magnitude of securities price movements, the

¹⁹ Schedule of Haircuts for Eligible Clearing Fund Securities in GSD and MBSD Rules, *supra* note 4.

²⁰ Notice of Filing, *supra* note 3, 88 FR at 68805; *see also* note 14 *supra*.

²¹ *Id.*

²² *Id.*

collateral value of Eligible Clearing Fund Securities may shift in a relatively short period of time and the current haircuts may not sufficiently account for the change in value.²³ When the erosion in the value of the Eligible Clearing Fund Securities exceeds the relevant haircuts, FICC is exposed to increased risk of potential losses associated with liquidating a member's portfolio in the event of a member default when the defaulting member's own margin is insufficient to satisfy losses to FICC caused by the liquidation of that member's portfolio.²⁴ Similarly, when a member's portfolio contains large net unsettled positions in a particular group of securities with a similar risk profile or in a particular asset type, such securities could present additional risk to FICC.²⁵ The additional risk exposures associated with liquidating a member's portfolio in the event of a member default could lead to an increase in the likelihood that FICC would need to mutualize losses among non-defaulting members during the liquidation process.²⁶ However, any changes to the haircuts and/or concentration limits currently requires a proposed rule change to be filed with the Commission.

Therefore, to provide FICC with more flexibility in adjusting the haircuts and concentration limits so FICC can respond to changing market conditions more promptly in order to mitigate the additional risk exposure, FICC is proposing to remove the GSD and MBSD Schedules of Haircuts for Eligible Clearing Fund Securities and concentration limits from the respective Rules, and to publish the haircuts and concentration limits in a haircut schedule on FICC's website.²⁷

²³ Notice of Filing, *supra* note 3, 88 FR at 68805.

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ Specifically, FICC is proposing to delete subsections (a), (b) and (c) of Section 3b (Special Provisions Relating to Deposits of Eligible Clearing Fund Securities) in GSD Rule 4 and Section 3c (Special Provisions Relating to Deposits of Eligible

In addition, FICC is proposing to add language in Section 3b in GSD Rule 4 and Section 3c in MBSD Rule 4, respectively, that makes it clear that all Eligible Clearing Fund Securities pledged to secure Clearing Fund deposits shall, for collateral valuation purposes, be subject to a haircut and may be subject to a concentration limit. The proposed language would provide that FICC shall determine the applicable haircuts and any concentration limits from time to time in accordance with its internal policy and governance process, based on factors determined to be relevant by FICC, which may include, for example, backtesting results and FICC's assessment of market conditions, in order to set appropriately conservative haircuts and/or concentration limits for the Eligible Clearing Fund Securities and minimize backtesting deficiency occurrences. The proposed language would also provide that the haircuts and any concentration limits prescribed by FICC shall be set forth in a haircut schedule that is published on FICC's website. The proposed language would also state that it shall be the member's responsibility to retrieve the haircut schedule, and that FICC would provide members with at a minimum one Business Day's advance notice of any change in the haircut schedule.

FICC states that the proposed change to move the haircuts and concentration limits from the Rules to the website would enable FICC to adjust the haircuts and concentration limits without undergoing a rule filing process (although it could still necessitate an advance notice under Title VIII of the Dodd-Frank Act, if a change materially affects the nature or level of risks presented by FICC).²⁸ FICC states that by being able to make appropriate and

Clearing Fund Securities) in MBSD Rule 4, respectively, to remove all haircuts and concentration limits from the Rules. FICC is also proposing to delete a sentence from Section 3b in GSD Rule 4 and Section 3c in MBSD Rule 4, respectively, that references haircuts set forth in the Rules, and add a general reference to applicable haircuts.

²⁸ Notice of Filing, *supra* note 3, 88 FR at 68806 and n. 8 (citing 12 U.S.C. 5465(e)(1) and 17 CFR 240.19b-4(n)(1)(i)).

timely adjustments to the haircuts and concentration limits, it would have the flexibility to respond to changing market conditions more promptly.²⁹ Having the flexibility to respond to changing market conditions more promptly would in turn help better ensure that FICC collects sufficient margin from members as well as risk manages its credit exposures to its members.³⁰

In its Notice of Filing, FICC also provides an overview regarding its changes to the categories relating to Treasury Inflation-Protected Securities (“TIPS”).³¹ FICC states that, as part of its daily backtesting regarding the adequacy of collateral haircuts, FICC has determined that in periods where the inflation rate fluctuates, the current haircut levels for TIPS have been inadequate to address the fluctuations from time to time.³² This is because TIPS are indexed to the inflation rate, and prices on TIPS move inversely to their yields, e.g., when the inflation rate increases, prices on TIPS decrease. When the decline in market value of TIPS exceeds the haircut for TIPS, FICC would be exposed to potential liquidation losses.³³

Accordingly, FICC is planning to address haircuts for TIPS in a separate category, as opposed to as part of a category also including Treasury Bills, Notes, and Bonds, and to

²⁹ *Id.*

³⁰ *Id.*

³¹ TIPS are a type of Treasury security issued by the U.S. government that are indexed to inflation such that the principal value of the security rises as inflation rises.

³² Notice of Filing, *supra* note 3, 88 FR at 68806.

³³ *Id.* Specifically, during the period from September 1, 2021 to August 31, 2022, with TIPS comprising less than 10 percent of the total collateral value across the GSD and MBSD divisions at FICC, FICC has observed 29 backtesting deficiencies at FICC, 26 at GSD and 3 at MBSD, where the collateral value that FICC attributed to the TIPS that were posted by members as margin (inclusive of the applicable current haircuts) was insufficient to cover the liquidation of such securities by FICC without incurring a loss. *Id.* The 29 backtesting deficiencies represent a sum total of approximately \$9.4 million across four days during the impact study period, less than 0.1% of the total collateral value at FICC on each of those days. *Id.*

increase the haircut levels for TIPS to ensure that the haircut levels would be commensurate with the particular risk attributes of TIPS.³⁴ FICC describes the new TIPS haircut categories as follows:³⁵

	Maturity	Current	Proposed
TIPS	Zero to 1 year	2.0%	2.0%
	1 year to 2 years	2.0%	3.0%
	2 years to 5 years	3.0%	5.0%
	5 years to 10 years	4.0%	7.0%
	10 years to 15 years	6.0%	7.0%
	15 years or greater	6.0%	10.0%

FICC conducted an impact study for the period from September 1, 2021 through August 31, 2022 (“Impact Study”).³⁶ The results of the Impact Study indicate that, if the haircut changes for TIPS had been in place, all 29 backtesting deficiencies would have been eliminated.³⁷

IV. DISCUSSION AND COMMISSION FINDINGS

Section 19(b)(2)(C) of the Act³⁸ directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and rules and regulations thereunder

³⁴ *Id.* FICC also stated that its review of TIPS haircuts at other registered clearing agencies demonstrate that FICC’s current haircut levels for TIPS are generally lower than the TIPS haircuts required by other clearing agencies and foreign CCPs, particularly with respect to maturity ranges of 10 years or longer. *Id.* (summarizing and citing various other clearing agency rules).

³⁵ *Id.* FICC also reflected the changes with respect to haircuts for TIPS on the haircut schedule filed as Exhibit 3c to the Notice of Filing, which would be posted to its website if the Proposed Rule Change were approved.

³⁶ FICC filed this Impact Study as confidential Exhibit 3a to the Notice of Filing.

³⁷ Notice of Filing, *supra* note 3, 88 FR at 68807 (also providing a more detailed summary of the Impact Study).

³⁸ 15 U.S.C. 78s(b)(2)(C).

applicable to such organization. After carefully considering the Proposed Rule Change, the Commission finds that the Proposed Rule Change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to FICC. In particular, the Commission finds that the Proposed Rule Change is consistent with section 17A(b)(3)(F)³⁹ of the Act and Rules 17Ad-22(e)(5) and (e)(23), each promulgated under the Act.⁴⁰

A. Consistency with Section 17A(b)(3)(F) of the Act

Section 17A(b)(3)(F) of the Act⁴¹ requires that the rules of a clearing agency, such as FICC, be designed to, among other things, promote the prompt and accurate clearance and settlement of securities transactions and assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.⁴² The Commission believes that the Proposed Rule Change is consistent with section 17A(b)(3)(F) of the Act for the reasons stated below.

As stated in Part II *supra*, a key tool that FICC uses to manage its credit exposures to its members is the daily collection of margin from each member described above, and FICC applies haircuts to securities collected as margin to protect FICC and its members from price fluctuations, *i.e.*, if FICC is required to liquidate collateral of an insolvent member and such collateral is worth less at the time of liquidation than when it is pledged to FICC.

By moving the location where collateral haircuts and concentration limits are published from FICC's Rules to its website, the Proposed Rule change would add

³⁹ 15 U.S.C. 78q-1(b)(3)(F).

⁴⁰ 17 CFR 240.17Ad-22(e)(5) and (e)(23).

⁴¹ 15 U.S.C. 78q-1(b)(3)(F).

⁴² *Id.*

flexibility for FICC to make timely adjustments to collateral haircuts and concentration limits during a time of potentially deteriorating market or other conditions, while preserving notice requirements to ensure that members are aware of risk management changes. This added flexibility should allow FICC to continue to ensure that it can address changing market conditions rapidly and ensure that it is collecting sufficient margin to cover its credit exposures to members and minimizing exposures from members with large collateral positions in a particular group of securities with a similar risk profile or in a particular asset type.⁴³

By helping FICC to collect sufficient margin, the Proposed Rule Change would better ensure that, in the event of a member default, FICC's operation of its critical clearance and settlement services would not be disrupted because of insufficient financial resources. Accordingly, the Proposed Rule Change should help FICC to continue providing prompt and accurate clearance and settlement of securities transactions, consistent with section 17A(b)(3)(F) of the Act.⁴⁴

Moreover, because the Proposed Rule Change would continue to ensure that FICC collects sufficient margin from members, it should also help minimize the likelihood that FICC would have to access the Clearing Fund, thereby limiting non-defaulting members' exposure to mutualized losses. By helping to limit the exposure of FICC's non-defaulting members to mutualized losses, the Proposed Rule Change should help FICC assure the safeguarding of securities and funds which are in its custody or control, consistent with section 17A(b)(3)(F) of the Act.⁴⁵

⁴³ In addition, the Commission believes that the changes relating to the haircuts for TIPS would allow FICC to ensure that the haircut levels would be commensurate with the particular risk attributes of TIPS, and thereby assure the safeguarding of securities and funds that are in its custody or control.

⁴⁴ 15 U.S.C. 78q-1(b)(3)(F).

⁴⁵ *Id.*

Finally, the proposed clarifying changes should help to ensure that FICC's Rules are clear to members. When members better understand their rights and obligations regarding the Rules, members are more likely to act in accordance with the Rules, which should promote the prompt and accurate clearance and settlement of securities transactions. As such, the proposed clarifying changes are consistent with section 17A(b)(3)(F) of the Act.⁴⁶

B. Consistency with Rule 17Ad-22(e)(5)

Rule 17Ad-22(e)(5) under the Act⁴⁷ requires, in part, a covered clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to set and enforce appropriately conservative haircuts and concentration limits if the covered clearing agency requires collateral to manage its or its participants' credit exposure. As described in Part II *supra*, the proposed changes to move the collateral haircuts and concentration limits from FICC's Rules should provide FICC with more flexibility to respond to changing market conditions because adjustments to the haircuts and concentration limits would no longer require a rule change. By being able to make appropriate and timely adjustments to the haircuts and concentration limits, FICC would have the flexibility to respond to changing market conditions more promptly.

Specifically, FICC would have the ability to promptly set and enforce conservative collateral haircuts and concentration limits that are reflective of the current market conditions. In this way, the proposed changes to move the collateral haircuts and concentration limits from the Rules to the website should help FICC set and enforce appropriately conservative collateral haircuts and concentration limits, consistent with the requirements of Rule 17Ad-22(e)(5) under the Act.⁴⁸

⁴⁶ *Id.*

⁴⁷ 17 CFR 240.17Ad-22(e)(5).

⁴⁸ *Id.*

C. Consistency with Rule 17Ad-22(e)(23)

Rule 17Ad-22(e)(23)(i) and (ii)⁴⁹ under the Act requires each covered clearing agency to establish, implement, maintain, and enforce written policies and procedures reasonably designed to, among other things, publicly disclose all relevant rules and material procedures; and provide sufficient information to enable participants to identify and evaluate the risks, fees, and other material costs they incur by participating in the covered clearing agency. Based on its review of the record, and for the reasons described below, the Commission finds that the proposed changes, taken together, are consistent with the requirements of Rule 17Ad-22(e)(23)(i) and (ii).⁵⁰

By adopting rules that require FICC to provide prior notice through public disclosures on its website relating to information on collateral haircuts and concentration limits, FICC's Rules would support the communication of information that its members may use to identify and evaluate the haircuts and concentration limits resulting from FICC's processes. As such, the Proposed Rule Change is consistent with publicly disclosing all relevant rules and material procedures; and providing sufficient information to enable participants to identify and evaluate the risks, fees, and other material costs incurred with participation in the covered clearing agency. The Commission finds, therefore, that the Proposed Rule Change is consistent with the requirements of Rule 17Ad-22(e)(23)(i) and (ii) under the Act.⁵¹

IV. CONCLUSION

On the basis of the foregoing, the Commission finds that the Proposed Rule Change is consistent with the requirements of the Act and in particular with the

⁴⁹ 17 CFR 240.17Ad-22(e)(23)(i) and (ii).

⁵⁰ *Id.*

⁵¹ *Id.*

requirements of section 17A of the Act⁵² and the rules and regulations promulgated thereunder.

IT IS THEREFORE ORDERED, pursuant to section 19(b)(2) of the Act⁵³ that proposed rule change SR-FICC-2023-014, be, and hereby is, APPROVED.⁵⁴

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁵⁵

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023-25106 Filed: 11/14/2023 8:45 am; Publication Date: 11/15/2023]

⁵² 15 U.S.C. 78q-1.

⁵³ 15 U.S.C. 78s(b)(2).

⁵⁴ In approving the Proposed Rule Change, the Commission considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁵⁵ 17 CFR 200.30-3(a)(12).