



SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-103584; File No. SR-FICC-2025-016]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend MBSD Rule 33 (Suspension of Rules in Emergency Circumstances)

July 30, 2025.

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 July 23, 2025, Fixed Income Clearing Corporation (“FICC”) 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 the clearing agency. FICC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(6) thereunder.⁴ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency’s Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of amendments to the FICC Mortgage-Backed Securities Division (“MBSD”) Clearing Rules (“MBSD Rules”) to (1) amend MBSD Rule 33 (Suspension of Rules in Emergency Circumstances) and, (2) based on those

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6).

amendments, update title cross-references to MBS Rule 33 in two locations of the MBS Rules.⁵

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency 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 clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The proposed rule change would revise the MBS Rules to (1) amend MBS Rule 33 (Suspension of Rules in Emergency Circumstances) and, (2) based on those amendments, update title cross-references to MBS Rule 33 in two locations of the MBS Rules, as described in detail below.

(i) Background

MBS Rule 33 authorizes FICC, in general, to waive, suspend, or extend an MBS Rule or a requirement under an MBS Rule. However, MBS Rule 33 currently limits any waiver, extension or suspension of an MBS Rule to "emergency circumstances" and imposes several reporting obligations on FICC when relying on the rule. More specifically, MBS Rule 33 requires (i) the existence of an "emergency;" (ii) the waiver, suspension, or extension of the MBS Rules to be necessary for FICC to facilitate the prompt and accurate clearance and settlement of securities transactions and

⁵ Capitalized terms not otherwise defined herein are defined in the MBS Rules, as applicable, available at <http://www.dtcc.com/legal/rules-and-procedures>.

to provide FICC's services in a safe and sound manner; (iii) notice to the Commission within two hours of FICC's determination to extend, waive, or suspend an MBSD Rule, but no later than one hour before the close of the Federal Reserve Banks' Fedwire Funds Service if the action taken relates to a settlement extension on the settlement day; (iv) a written report to be submitted to the Commission no later than three calendar days after the implementation of the extension, waiver or suspension of a rule, procedure, or regulation issued by FICC; and (v) FICC to submit a proposed rule change to the Commission, pursuant to Rule 19b-4 under the Act,⁶ if the extension, waiver or suspension is to last for longer than 30 calendar days.

Over time, FICC has come to realize that the extensive limitations on the scope of MBSD Rule 33 and the considerable administrative obligations imposed by the current requirements of the rule greatly restrict FICC's ability to manage situations in MBSD that do not rise to the level of an emergency but still require waiver, extension or suspension of an MBSD Rule or a requirement under an MBSD Rule. Not every situation in which FICC would need to waive, extend, or suspend an MBSD Rule or a requirement under an MBSD Rule is an emergency, nor would every waiver, extension or suspension necessarily support FICC's prompt and accurate clearance and settlement of securities transactions; yet, the absence of an emergency or support of clearance and settlement means FICC may not rely on MBSD Rule 33 to help address such a situation. Moreover, the current scope and regulatory reporting requirements of MBSD Rule 33 are now more appropriately covered by MBSD Rule 40 (Market Disruption and Force Majeure),⁷ which was adopted after MBSD Rule 33.

⁶ 17 CFR 240.19b-4.

⁷ MBSD Rule 40, *supra* note 5.

MBSD Rule 40 addresses FICC’s authority to take certain actions upon the occurrence and during the pendency of a “Market Disruption Event,” as defined in the rule. A Market Disruption Event includes, for example, events that lead to the suspension or limitation of trading or banking in the markets in which FICC operates, or the unavailability or failure of any material payment, bank transfer, wire, or security settlement system.⁸ In other words, the Market Disruption Events covered by MBSD Rule 40 are essentially emergencies.

Much like MBSD Rule 33, MBSD Rule 40 also imposes heightened reporting obligations on FICC, given the emergency nature of Market Disruption Events that would require use of MBSD Rule 40. Specifically, if relying on MBSD Rule 40, the rule requires FICC to (i) attempt to consult with the Commission prior to taking action under the rule; (ii) advise the Commission by telephone, confirmed in writing, as soon as practicable after taking such action; and (iii) promptly file a record of that writing with FICC’s corporate records, which shall be made available for inspection by any FICC Member.⁹ Then, upon the ending of the Market Disruption Event and the associated action taken under MBSD Rule 40, the rule requires FICC to (A) advise the Commission of such by telephone, confirmed in writing, as soon as practicable; and (B) promptly file a record of that writing with FICC’s corporate records, which shall be made available for inspection by any Member.¹⁰

With the adoption of MBSD Rule 40 to address emergency situations, MBSD now has two rules that address essentially the same situations; yet, it lacks a rule to address situations that may not constitute emergencies or relate to clearance and settlement, but still require waiver, extension or suspension of an MBSD Rule or a

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

requirement under an MBSD Rule. As such, FICC proposes to amend MBSD Rule 33 to handle situations that may not rise to the level of an emergency and may not relate to clearance and settlement, but that still require a waiver, extension or suspension of an MBSD Rule or a requirement under an MBSD Rule. The proposed amendments would align with an existing rule of FICC’s Government Securities Division (“GSD”), as well as existing rules of FICC’s affiliate clearing agencies, National Securities Clearing Corporation (“NSCC”) and The Depository Trust Company (“DTC”), as discussed below.¹¹

(ii) Proposed Amendments to MBSD Rule 33

The proposed amendments to MBSD Rule 33 would eliminate the requirements that (i) an “emergency” exists; (ii) any extension, waiver or suspension of the MBSD Rules must be necessary for FICC to facilitate the prompt and accurate clearance and settlement of securities transactions and providing FICC’s services in a safe and sound manner; (iii) notice be sent to the Commission within two hours of FICC’s determination to extend, waive or suspend an MBSD Rule, but no later than one hour before the close of the Federal Reserve Banks’ Fedwire Funds Service if the action taken relates to a settlement extension on the settlement day; (iv) a written report be submitted to the Commission no later than three calendar days after the implementation of the extension, waiver or suspension of a rule (although, MBSD would still be required to make and maintain a similar report, as discussed further below); (v) FICC submit a proposed rule change to the Commission, pursuant to Rule 19b-4 under the Act,¹² if the extension, waiver or suspension is to last for longer than 30 calendar days; and (vi) the extension,

¹¹ NSCC and DTC are affiliates of FICC under their parent holding company, The Depository Trust & Clearing Corporation.

¹² 17 CFR 240.19b-4.

waiver or suspension will not remain in effect if the Commission notifies the Corporation in writing that it objects to such extension, waiver or suspension.

The proposed amendments to MBSD Rule 33 would add language to (i) establish “reasonable and appropriate” as the new standard for when an extension, waiver or suspension may occur; (ii) explain that an extension, waiver or suspension may not continue in effect for more than 60 calendar days unless such action is approved by FICC’s Board of Directors prior to the 60th day; (iii) require action under the rule to be in consideration of FICC’s obligations as a clearing agency, as explained further below; and (iv) similar to the current reporting requirement, require FICC to promptly make and maintain for inspection by Members a report of any extension, waiver or suspension (other than an extension of time of less than eight hours) stating the pertinent facts, the identity of the person or persons who authorized the action, and the reason such action was reasonable and appropriate. Finally, the proposed rule change would update the title of MBSD Rule 33 to “Extension, Waiver or Suspension of Rules” and update two title cross-references to MBSD Rule 33 in MBSD Rules 3 (Ongoing Membership Requirements) and 3A (Cash Settling Bank Members), as described below.¹³

As noted above, the proposed changes would align the language, purpose, and governance of MBSD Rule 33 with the equivalent, existing waiver, suspension, and extension rules of FICC GSD Rule 42,¹⁴ NSCC Rule 22,¹⁵ and DTC Rule 18.¹⁶ Those equivalent rules do not require emergency situations, a relationship to clearance and

¹³ MBSD Rules 3 and 3A, *supra* note 5.

¹⁴ FICC GSD Rulebook (“FICC GSD Rules”), *available at* https://www.dtcc.com/~media/Files/Downloads/legal/rules/ficc_gov_rules.pdf.

¹⁵ NSCC Rules & Procedures (“NSCC Rules”), *available at* https://dtcc.com/~media/Files/Downloads/legal/rules/nscc_rules.pdf.

¹⁶ DTC Rules, By-laws and Organization Certificate (“DTC Rules”), *available at* https://www.dtcc.com/~media/Files/Downloads/legal/rules/dtc_rules.pdf.

settlement, or outreach to the Commission or the filing of a rule change where the authority would last longer than 30 days. Instead, like MBSD, the rules of GSD, NSCC, and DTC each include their own Market Disruption and Force Majeure rules to manage emergency situations.¹⁷

Although the proposed changes to MBSD Rule 33 would not require notification to the Commission, submission of a report to the Commission, or a filing with the Commission if the exercised authority would continue for more than 30 calendar days, as noted above, the proposed modifications still would require FICC to write a report, as described above, except for an extension of time of less than eight hours. The report would need to include almost the same information currently required by the rule, except the report would no longer include the nature of the emergency because an emergency would no longer be required, nor would it include why the action was necessary to facilitate the prompt and accurate clearance and settlement of securities transactions and providing FICC's services in a safe and sound manner because that necessity also would no longer be required. FICC would be required to file the report in FICC's corporate records, and make it available to Members for inspection. Moreover, the proposed amendments would limit any exercised authority under MBSD Rule 33 to no more than 60 calendar days, unless such action is approved by FICC's Board of Directors prior to the 60th calendar day. Each of these governance concepts are consistent with the corresponding GSD, NSCC, and DTC rules noted above.

As described above, the proposed changes eliminate the requirement that an emergency must exist and that any extension, waiver or suspension must be necessary to facilitate the prompt and accurate clearance and settlement of securities transactions. Instead, the proposed changes introduce a "reasonable and appropriate" standard, under

¹⁷ FICC GSD Rule 50, *supra* note 14; NSCC Rule 60, *supra* note 15; DTC Rule 38, *supra* note 16.

which FICC may act to prevent, correct, mitigate or otherwise address an event or situation that, if left unaddressed, could result in a failure to satisfy a requirement of the MBSD Rules. The proposed rule change also clarifies that such authority may not be used to circumvent FICC's regulatory obligations provided under MBSD Rule 40 in the event of a Market Disruption.

In determining whether to exercise the authority provided by the proposed changes to MBSD Rule 33, the proposed rule text would require FICC to consider its obligation to facilitate the prompt and accurate clearance and settlement of securities transactions; to safeguard securities and funds which are in its custody or control; and, in general, to protect investors and the public interest. Examples of the types of actions that may be considered reasonable and appropriate include, but are not limited to, temporarily suspending margin charges or extending margin submissions due to an operational error; extending a payment deadline in cases where billing information is not readily available to Members; waiving applicable charges related to processing or submission failures that result from operational constraints; or reversing fees assessed in connection with erroneous activity resulting from misunderstanding of established procedures.

Note, though, any extension, waiver or suspension under the proposed changes to MBSD Rule 33 could not be a permanent action, nor would the rule permit extension, waiver or suspension of any regulatory obligations of FICC.

The proposed changes to MBSD Rule 33, as described above, would help ensure that MBSD is able to respond reasonably and appropriately to situations that may not be emergencies and may not be related to clearance and settlement but still require a waiver, suspension, or extension of an MBSD Rule or a requirement under an MBSD Rule in the same way that GSD, NSCC, and DTC can respond to such situations – without the limited scope and administrative burdens currently contained in MBSD Rule 33. This harmonization is important to help ensure that both FICC divisions, as well as NSCC and

DTC, can consistently manage such situations that may apply across multiple divisions, clearing agencies, or common members, while still maintaining the authority and process to manage situations that are emergencies under separate authority. That is, upon the occurrence of a Market Disruption Event, as defined in MBSD Rule 40, and the need for FICC to exercise the authority provided by MBSD Rule 40, the process and authority set forth in MBSD Rule 40 would be followed.

2. Statutory Basis

Section 17A(b)(3)(F) of the Act requires that the rules of the clearing agency be designed, inter alia, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.¹⁸ FICC believes that the proposed rule change is consistent with the Section 17A(b)(3)(F) of the Act, as cited above.

As described above, the proposed rule change would update MBSD Rule 33 to remove language that restricts the applicable scope of the rule and certain regulatory reporting obligations to the Commission when the rule is exercised. Meanwhile, the proposed rule change would add language to MBSD Rule 33 to include a “reasonable and appropriate” use standard, limit any extension, waiver or suspension beyond 60 days without engagement by FICC’s Board of Directors but exclude the need for a written report where an extension under the rule is for less than eight hours. Finally, the proposed rule change would update two title cross-references to MBSD Rule 33 in MBSD Rules 3 (Ongoing Membership Requirements) and 3A (Cash Settling Bank Members).

The proposed rule change would help ensure that MBSD is able to respond reasonably, appropriately, and effectively to situations that may not constitute an emergency and may not involve FICC’s clearance and settlement of transactions but still

¹⁸ 15 U.S.C. 78q-1(b)(3)(F).

require a waiver, suspension, or extension of an MBSD Rule or obligation under an MBSD Rule. The proposed changes also would enable MBSD to respond to such situations in the same way that GSD, NSCC, and DTC can currently respond under their respective rules, without the limited scope and administrative reporting burdens currently contained in MBSD Rule 33, yet maintaining the same governance structure that exists in those corresponding rules. For Market Disruption Events, FICC would continue to rely on MBSD Rule 40 to help address such emergency situations. Additionally, updating the two title cross-references to MBSD Rule 33 in the MBSD Rules helps ensure the rules remain clear and accurate for Members.

Therefore, by helping to ensure that MBSD can respond more efficiently and effectively to more situations that require a waiver, suspension, or extension of an MBSD Rule or obligation under an MBSD Rule, and helping to ensure that cross-references in the MBSD Rules remain clear and accurate, FICC believes the proposed rule change would help to assure the safeguarding of securities and funds which are in the custody or control of FICC or for which it is responsible, consistent with the requirements of the Act, in particular Section 17A(b)(3)(F) of the Act, cited above.

(B) Clearing Agency'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 because, as described above, the proposed changes would not affect the rights and obligations of the MBSD membership. Rather, the proposed changes would enable FICC to employ MBSD Rule 33 more efficiently and effectively when responding to situations that may not constitute an emergency or relate to clearance and settlement, yet still require waiver, suspension, or extension of an MBSD Rule or obligation under an MBSD Rule. As such, FICC believes the proposed rule change would not have any impact on competition.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

FICC has not received or solicited any written comments relating to this proposal. If any written comments are received, FICC will amend this filing to publicly file such comments as an Exhibit 2 to this filing, as required by Form 19b-4 and the General Instructions thereto.

Persons submitting written comments are cautioned that, according to Section IV (Solicitation of Comments) of the Exhibit 1A in the General Instructions to Form 19b-4, the Commission does not edit personal identifying information from comment submissions. Commenters should submit only information that they wish to make available publicly, including their name, email address, and any other identifying information.

All prospective commenters should follow the Commission's instructions on *How to Submit Comments*, available at <https://www.sec.gov/regulatory-actions/how-to-submit-comments>. General questions regarding the rule filing process or logistical questions regarding this filing should be directed to the Main Office of the Commission's Division of Trading and Markets at tradingandmarkets@sec.gov or 202-551-5777.

FICC reserves the right to not respond to any comments received.

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

Because the foregoing proposed rule change does not:

- (i) significantly affect the protection of investors or the public interest;
- (ii) impose any significant burden on competition; and

(iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁹ and Rule 19b-4(f)(6) thereunder.²⁰

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.

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 (<https://www.sec.gov/rules-regulations/self-regulatory-organization-rulemaking>);
or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-FICC-2025-016 on the subject line.

Paper Comments:

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

All submissions should refer to File Number SR-FICC-2025-016. 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

¹⁹ 15 U.S.C. 78s(b)(3)(A).

²⁰ 17 CFR 240.19b-4(f)(6).

Commission will post all comments on the Commission's Internet website (<https://www.sec.gov/rules-regulations/self-regulatory-organization-rulemaking>). Copies of the filing will be available for inspection and copying at the principal office of FICC and on DTCC's website (www.dtcc.com/legal/sec-rule-filings). Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to File Number SR-FICC-2025-016 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²¹

Sherry R. Haywood,
Assistant Secretary.

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²¹ 17 CFR 200.30-3(a)(12).