through nature of the ABS Securities, the level of risk involved in the purchase or sale of the ABS Securities is similar to the risk involved in the purchase or sale of traditional common stock.

The Commission notes that the Exchange's rules and procedures that address the special concerns attendant to the trading of hybrid securities will be applicable to the ABS Securities. In particular, by imposing the hybrid listing standards, suitability, disclosure, and compliance requirements noted above, the Commission believes the Exchange has addressed adequately the potential problems that could arise from the hybrid nature of the ABS Securities. Moreover, the Commission notes that the Exchange will distribute a circular to its membership calling attention to the specific risks associated with the ABS Securities.

The Commission notes that the ABS Securities are dependent upon the individual credit of the issuers of the Underlying Securities. To some extent this credit risk is minimized by the Exchange's listing standards in section 107A of the Company Guide which provide that only issuers satisfying asset and equity requirements may issue securities such as the ABS Securities. In addition, the Exchange's ''Other Securities'' listing standards further provide that there is no minimum holder requirement if the securities are traded in thousand dollar denominations.[25] The Commission notes that the Exchange has represented that the ABS Securities will be listed in $1000 denominations with its existing debt floor trading rules applying to the trading. In any event, financial information regarding the issuers of the Underlying Securities will be publicly available.[26]

Due to the pass-through and passive nature of the ABS Securities, the Commission does not object to the Exchange's reliance on the assets and stockholder equity of the Underlying Securities rather than the Trust to meet the requirement in section 107A of the Company Guide. The Commission notes that the distribution and principal amount/aggregate market value requirements found in sections 107A(b) and (c), respectively, will otherwise be met by the Trust as issuer of the ABS Securities. Thus, the ABS Securities will conform to the initial listing guidelines under section 107A and continued listing guidelines under sections 1001–1003 of the Company Guide, except for the assets and stockholder equity characteristics of the Trust. At the time of issuance, the Commission also notes that the ABS Securities will receive an investment grade rating from an NRSRO.

The Commission also believes that the listing and trading of the ABS Securities should not unduly impact the market for the Underlying Securities or raise manipulative concerns. As discussed more fully above, the Exchange represents that, in addition to requiring the issuers of the Underlying Securities meet the Exchange's section 107A listing requirements (in the case of Treasury securities, the Exchange will rely on the fact that the issuer is the U.S. Government rather than the asset and stockholder tests found in section 107A), the Underlying Securities will be required to meet or exceed the Exchange's Bond and Debenture Listing Standards pursuant to section 104 of the Amex's Company Guide, which among other things, requires that underlying debt instrument receive at least an investment grade rating of ''B'' or equivalent from an NRSRO. Furthermore, at least 75% of the basket is required to contain Underlying Securities from issuances of $100 million or more. The Amex also represents that the basket of Underlying Securities will not be managed and will remain static over the term of the ABS securities. In addition, the Amex's surveillance procedures will serve to deter as well as detect any potential manipulation.

The Commission notes that the investors may obtain price information on the Underlying Securities through market venders such Bloomberg, L.P., or though websites such as *http://www.investinginbonds.com* (for Underlying Corporate Bonds) and *http://publicdebt.treas.gov* and *http://www.govpx.com* (for Treasury Securities and GSE Securities, respectively).

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. The Amex has requested accelerated approval because this product is similar to several other asset-backed instruments currently listed and traded on the Amex.[27] The Commission believes that the ABS Securities will provide investors with an additional investment choice and that accelerated approval of the proposal will allow investors to begin trading the ABS Securities promptly. Additionally, the ABS Securities will be listed pursuant to Amex's existing hybrid security listing standards as described above. Based on the above, the Commission believes that there is good cause, consistent with sections 6(b)(5) and 19(b)(2) of the Act [28] to approve the proposal on an accelerated basis.

V. Conclusion

Is it therefore ordered, pursuant to section 19(b)(2) of the Act,[29] that the proposed rule change (SR–Amex–2003–92) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[30]

Margaret H. McFarland,

Deputy Secretary.

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or upon payment default or acceleration of the maturity date for any default other than payment default. *See* Prospectus for a schedule of the distribution of interest and of the principal upon maturity of each Underlying Security and for a description of payment default and acceleration of the maturity date. Telephone conversation between Jeffrey P. Burns, Assistant General Counsel, Amex, and Ronesha A. Butler, Attorney, Division, Commission, on November 12, 2003.

[25] *See* Company Guide section 107A.

[26] The ABS Securities will be registered under section 12 of the Act.

[27] *See supra* note 11.

[28] 15 U.S.C. 78f(b)(5) and 78s(b)(2).

[29] 15 U.S.C. 78*o*–3(b)(6) and 78s(b)(2).

[30] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48796; File No. SR–FICC–2003–10]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing of Proposed Rule Change To Amend the Fixed Income Clearing Corporation's Cross-Margining Agreements With the Chicago Mercantile Exchange, BrokerTec Clearing Company, and the Board of Trade Clearing Corporation and To Eliminate the Cross-Margining Agreement With the New York Clearing Corporation

November 17, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on October 6, 2003, 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

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

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 its cross-margining agreements with the Chicago Mercantile Exchange (''CME''), BrokerTec Clearing Company (''BCC''), and the Board of Trade Clearing Corporation (''BOTCC'') and to eliminate its cross-margining agreement with the New York Clearing Corporation (''NYCC'').

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.[2]

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

1. New Cross-Margining Agreement With CME

Through its Government Securities Division (''GSD''), FICC has a cross-margining arrangement with CME.[3] FICC is proposing to terminate its existing cross-margining agreement with CME and to enter into a new cross-margining agreement with the CME (''New FICC–CME Agreement'') to reflect the fact that, as of January 2, 2004, the CME will begin clearing certain Treasury and Agency futures contracts and options on futures contracts that are traded on the Chicago Board of Trade (''CBOT'') and are currently cleared by BOTCC. Under the New FICC–CME Agreement, the FICC products that will be eligible for cross-margining will be Treasury securities that fall into the GSD's offset classes A through G and GCF Repo Treasury securities with equivalent remaining maturities and non-mortgage-backed Agency securities that fall into the GSD's offset classes e and f and GCF Repo non-mortgage-backed Agency securities with equivalent remaining maturities. The CME products that will be eligible for cross-margining will be of two types: (i) the products currently eligible under the existing arrangement between FICC and CME which are Eurodollar futures contracts with ranges in maturity from 3 months to 10 years and options on such future contracts cleared by CME and (ii) the CBOT products which are Two-Year Treasury Note Futures contracts and options thereon, Five-Year Treasury Note Futures contracts and options thereon, Ten-Year Treasury Note Futures contracts and options thereon, Thirty-Year Treasury Bond Futures contracts and options thereon, Five-Year Agency Note Futures contracts and options thereon, and Ten-Year Agency Note Futures contracts and options thereon to be cleared by CME.

No significant changes are being proposed to the existing FICC–CME cross-margining arrangement other than the addition of the CBOT products and certain FICC products as discussed in more detail below. The key aspects of the cross-margining arrangement, most notably, the calculation of the cross-margining reduction and the loss sharing provisions in the event of a participant default are not being amended.

2. Key Proposed Changes to the Existing Cross-Margining Agreement Between FICC and CME

The addition of the CBOT products has necessitated new definitions for ''CBOT Eligible Products,'' ''CME Eligible Products,'' and ''FICC Eligible Products,'' as well as Offset Class tables for these products in Appendix B of the agreement.

Appendix B of the FICC–CME Agreement is also being amended to include FICC's GCF Repo Treasury and non-mortgage-backed Agency products in the cross-margining arrangement.[4] By the effective date of the New FICC–CME Agreement, FICC will be margining its GCF Repo Treasury and non-mortgage-backed Agency products based upon the specific underlying collateral, as opposed to the current system of margining these products based upon the longest maturity of eligible underlying collateral.[5] Therefore, these GCF Repo products can now be included in the cross-margining arrangement because they will no longer be margined at a generic rate but rather at a specific rate based on the actual underlying Treasury and Agency collateral.

As is the case with the current agreement between FICC and CME, the parties provide in the New FICC–CME Agreement that they will agree from time to time in a separate writing on the disallowance factors that will be used in the cross-margining arrangement. The disallowance factors that will be used upon implementation of the new arrangement are the ones set forth as examples in Appendix B to the New FICC–CME Agreement. The disallowance factors between FICC eligible products and CME eligible products (*i.e.*, Eurodollar products) have not changed. A new disallowance factor table has been added for cross-margining of FICC eligible Treasury and Agency products with CBOT Treasury and Agency eligible products.[6]

Appendix C of the current agreement which sets forth the methodology for converting CME eligible products into Treasury cash equivalents for purposes of ultimately calculating the cross-margining reduction has been made into Appendix C1 and a new Appendix C2 has been added which contains the methodology for converting the CBOT eligible products into Treasury cash equivalents. This is identical to the methodology contained in the BOTCC and BCC cross-margining agreements.

The existing agreement between FICC and CME provides for a ''Maximization Payment'' which is a cross-guaranty provision that sets forth a mechanism for a clearing organization with a remaining surplus after all guaranty payments in relation to cross-margining have been made (''Aggregate Net Surplus'') to distribute funds to one or more cross-margining partners with remaining losses. The New FICC–CME Agreement will make it clear that: (i) The Maximization Payment is also a guaranty payment (albeit outside of cross-margining, arising out of the ''Maximization Payment Guaranty'') and (ii) the defaulting member would have a reimbursement obligation with respect to such payment (''Maximization

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

[3] Securities Exchange Act Release No. 44301 (May 11, 2001), 66 FR 28207 (May 22, 2001) [File No. SR–GSCC–00–13].

[4] This amendment is also being proposed with respect to the GCF Repo Treasury products and the BCC cross-margining arrangement as discussed below.

[5] Because of a previous inability to obtain timely data on the actual instruments posted in support of GCF Repo positions, the GSD has calculated affected members' Clearing Fund requirements based upon the assumption that collateral providers have assigned to each generic CUSIP the most volatile (*i.e.*, the longest maturity) collateral eligible. The GSD has been in the process of developing improvements to the current margining methodology. By the effective date of the proposed rule change, the GSD will be able to identify the specific CUSIP posted in calculating a member's Clearing Fund requirement related to its Treasury and Agency GCF Repo activity.

[6] FICC has computed and tested disallowance factors that will be applicable to each potential pair of positions being offset.

Reimbursement Obligation''). This means that should a clearing organization become obligated to pay the Maximization Payment, it may rely on the defaulting member's collateral to do so.[7]

A provision has been added to the New FICC–CME Agreement to take into account that a regulator or other entity having supervisory authority over FICC or CME may for safety and soundness purposes direct the clearing organization not to liquidate a defaulting member or to partially liquidate such member. In order to prevent the affected clearing organization from being penalized under the agreement for failing to liquidate or partially liquidating the member in this type of situation, the last two paragraphs of section 7(d) of the New FICC–CME Agreement will provide that the affected clearing organization would be deemed to have a cross-margin gain equal to the base amount of the guaranty (*i.e.*, cross-margining reduction) or a pro rated amount of the base amount of the guaranty in a partial liquidation scenario.

A sentence has been added to section 7(h) making clear that the clearing organizations have security interests in the ''Aggregate Net Surplus,'' a large component of which would be the collateral and proceeds of positions of a defaulting member, as security for any reimbursement obligation including any maximization reimbursement obligation that may arise on the part of a defaulting member.

Language has been added to the cross-margining participant agreements in Appendices D and E in order to further protect the clearing organizations by making clear that the clearing organizations have a security interest in the Aggregate Net Surplus and that a participant will have a reimbursement obligation in the event that a clearing organization becomes obligated to make a maximization payment. Participants in the current arrangement between FICC and CME and those in the arrangement between FICC and BOTCC to the extent they are not the same are being asked to reexecute the revised participant agreements in order to make them subject to the provisions of the New FICC–CME Agreement.[8]

3. Key Proposed Changes to FICC's Cross-Margining of CBOT Products

Because FICC is currently cross-margining its products with certain CBOT products pursuant to its agreement with BOTCC and because these CBOT products will be cross-margined pursuant to the proposed New FICC–CME Agreement if the proposed rule change is approved by the Commission, it is important to note the key differences between the cross-margining of the CBOT products under the existing arrangement with BOTCC and under the proposed new arrangement with the CME.

The minimum margin factor under FICC's cross-margining arrangement with BOTCC is 50 percent. FICC and CME have agreed to a minimum margin factor of 25 percent to apply to the cross-margining of CBOT products versus FICC products. This is the same minimum margin factor as is used in the current cross-margining arrangement with the CME with respect to the eligible Eurodollar products and is the same minimum margin factor used in the arrangement with BCC.

The New FICC–CME Agreement provides for inter-offset class cross-margining whereas the BOTCC arrangement is limited to intra-offset class cross-margining. The new agreement is consistent with the approach in the existing arrangements between FICC and both CME and BCC.

The current agreement between FICC and CME provides that in order to determine the gain or loss from the liquidation of the positions that were cross-margined resulting from a default of a member, only the proceeds from the side of the market that was offset pursuant to the agreement at the last margin cycle are considered. In the New FICC–CME Agreement, this approach will be extended to the CBOT products in order to provide consistency in the liquidation methods.

4. Amendments 1, 2, and 3 to the FICC–BCC cross-margining agreement

FICC is proposing to amend its cross-margining agreement with BCC[9] with Amendment 3 to the agreement. Amendment 3 will (i) add FICC's GCF Repo Treasury and non-mortgage-backed Agency products to the arrangement, (ii) add FICC's non-mortgage-backed Agency offset classes e and f, and (iii) amend the contingency procedures between the clearing organizations (contained in Appendix I of the agreement) to provide that FICC will not wait past 12 a.m. Eastern time for the BCC cross-margining file in order to run its cross-margining system. With respect to (ii), FICC has determined that even though BCC does not currently clear non-mortgage-backed Agency futures, the parties can still cross-margin FICC's Agency products against BCC's Treasury products given that the agreement provides for inter-offset class cross-margining using the appropriate correlation factors. With respect to (iii), the operational procedures provide that FICC will wait until 3 a.m. Eastern time for the BCC file which is the same cut-off time for all of its other cross-margining partners. However, FICC has determined that the 3 a.m. Eastern time cut-off, which is significantly later than the GSD's normal cross-margining processing time, should only be used for extreme situations where not including a particular file would be disruptive to members. Currently, this would not be anticipated to be the case for a BCC file because of BCC's files relatively low historical impact.[10] Therefore, FICC has determined that it would be more prudent from a risk management perspective to adopt a cut-off time of 12 a.m. Eastern time for receipt of BCC files.

As part of this proposed rule change filing, FICC would like to include Amendments 1 and 2 that were previously made with respect to its existing cross-margining agreement with BCC. The purpose of Amendment 1 was to update the list of products being cross-margined. The purposes of Amendment 2 were to remove

[7] The new guaranty provisions with respect to the Maximization Payment Guaranty will be identical to the ones in the current cross-margining agreement between FICC and BCC. In order to protect the clearing organizations in the event that a court determines that any amount of a Maximization Reimbursement Obligation may not be recovered by the clearing organization that made a Maximization Payment pursuant to a Maximization Payment Guaranty, a provision has been added (Section 8C(c)) to the New FICC–CME Agreement to provide that the payee clearing organization will be expected to return that amount. This protective provision is also in the BCC cross-margining agreement.

[8] Cross-margining is available to any FICC GSD netting member (with the exception of inter-dealer broker netting members) that is, or that has an affiliate that is, a member of a Participating CO. The FICC member (and its affiliate, if applicable) sign an agreement under which it (or they) agree to be bound by the cross-margining agreement between FICC and the Participating CO and which allows FICC or the Participating CO to apply the member's (or its affiliate's) margin collateral to satisfy any obligation of FICC to the Participating CO (or vice versa) that results from a default of the member (or its affiliate). Ownership of 50 percent or more of the common stock of an entity indicates control of the entity for purposes of the definition of ''affiliate.''

[9] Securities Exchange Act Release No. 45656 (March 27, 2002), 67 FR 15646 (April 2, 2002) [File No. SR–GSCC–2002–01].

[10] The operational and contingency procedures contained in the FICC–BCC agreement provide that in the event FICC does not receive BCC's file by the cut-off time, FICC will calculate the applicable cross-margining reductions assuming that BCC submitted a file with no positions available for cross-margining which may result in margin calls for the affected participants by both FICC and BCC. These margin calls would not be disruptive to members because the cross-margining reductions in the program with the BCC are not anticipated to be large amounts.

references to the cross-margining agreement with NYCC from Appendix A in which the parties are required to list other outstanding cross-margining arrangements and to update the notice provision.

5. Amendments 1 and 2 to the FICC–BOTCC Cross-Margining Agreement

As in the case of the BCC agreement, FICC would like to include as part of this proposed rule change filing Amendments 1 and 2 that were previously made with respect to its existing cross-margining arrangement with BOTCC.[11] The purposes of Amendment 1 were to update the list of products being cross-margined, add an appendix setting forth operational contingency procedures, clarify procedures to be used if one clearing organization discovers a calculation error, correct cited Bankruptcy Code language, correct language in one of the participant agreements, and refine the timing of the effectiveness of changes to the cross-margining reduction. The purpose of Amendment 2 was to remove references to the cross-margining agreement with NYCC from Appendix A.

6. Removal of NYCC Cross-Margining Agreement From the GSD's Rules

FICC is proposing to remove its cross-margining agreement with NYCC[12] from the GSD's rules. That arrangement has been dormant for some time and the parties have agreed that should they determine to reinstitute cross-margining, they will enter into a new cross-margining agreement that will be similar to FICC's other cross-margining agreements. At that time, FICC would file the appropriate proposed rule change with the Commission.

FICC believes that the proposed rule change is consistent with the requirements of section 17A of the Act[13] and the rules and regulations thereunder applicable to FICC because it will facilitate the safeguarding of securities and funds which are in its custody or control or for which it is responsible and in general will protect investors and the public interest by continuing FICC's cross-margining program which provides members with significant benefits, such as greater liquidity and more efficient use of collateral in a prudent manner, and enhances FICC's overall risk management process.

(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.

(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 thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date 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 such proposed rule change or;

(B) institute proceedings to determine whether the proposed rule change should be 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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Comments may also be submitted electronically at the following e-mail address: *rule-comments@sec.gov.* All comment letters should refer to File No. SR–FICC–2003–10. This file number should be included on the subject line if e-mail is used. To help us process and review comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods.

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 filing also will be available for inspection and copying at the principal office of FICC and at *http://www.ficc.com.*

All submissions should refer to File No. SR–FICC–2003–10 and should be submitted by December 12, 2003.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–29085 Filed 11–20–03; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48772; File No. SR–NYSE–2003–30]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Extension of the Pilot for the Exchange's Automatic Execution Facility for Certain Limit Orders (NYSE Direct+)

November 12, 2003.

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 October 8, 2003, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') 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 NYSE. 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 proposes to extend until December 23, 2004, the effectiveness of the pilot for NYSE Direct+ (the

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[11] FICC currently has a cross-margining agreement in place with BOTCC through which certain CBOT products are cross-margined with certain FICC products. Securities Exchange Act Release No. 45335 (January 25, 2002), 67 FR 4768 (January 31, 2001) [File No. SR–GSCC–2001–03]. BOTCC recently announced that it will become the clearing corporation for Eurex. In the next few weeks, FICC will determine the status of its cross-margining arrangement with BOTCC and will submit a proposed rule change filing addressing changes to the existing agreement, if necessary.

[12] Securities Exchange Act Release No. 41766 (August 19, 1999), 64 FR 46737 (August 26, 1999) [File No. SR–GSCC–98–04].

[13] 15 U.S.C. 78q–1.

[14] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.