amending and clarifying the time to assess such a review, CBOE will further enhance the independence of its regulatory structure.

2. Statutory Basis

CBOE believes the proposed rule change is consistent with Section 6(b) of the Act [3] in general, and furthers the objectives of section 6(b)(5) of the Act [4] in particular, by promoting just and equitable principles of trade, and protecting investors and the public interest. The proposed rule change will promote just and equitable principles of trade and protect investors and the public interest by further enhancing the independence of the Exchange's disciplinary and regulatory process.

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

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

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

The Exchange neither solicited nor received written comments on the proposed rule change.

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

Within 35 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 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so findings 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. 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.* Please include File Number SR–CBOE–2004–82 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–CBOE–2004–82. 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 filing also will be available for inspection and copying at the principal office of CBOE. 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–CBOE–2004–82 and should be submitted on or before February 2, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E5–72 Filed 1–11–05; 8:45 am]

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[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(5).

[5] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–50965; File No. SR–FICC–2004–06]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Approving Proposed Rule Change To Institute Fines for Late Payment of Cash Obligations and Margin and To Institute Informal Hearing Procedures for Fine Disputes

January 5, 2005.

I. Introduction

On March 18, 2004, the Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') and on April 16, 2004, amended proposed rule change SR–FICC–2004–06 pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on November 15, 2004.[2] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description

The purpose of the proposed rule change is to institute at the MBSD (i) fines for the late payment of cash obligation items and margin deficits and (ii) informal procedures for disputed MBSD fines.

1. Fines for Late Payments

The MBSD has for some time imposed fees in order to promote greater compliance with its cash obligation and margin payment deadlines.[3] Fees differ from fines in that fines must be reported by FICC to the Commission. FICC believes that, consistent with the practice of the Government Securities Division (''GSD'') of FICC, assessments for late payment of margin and cash obligation items should be categorized as fines. FICC believes that this change will provide a greater incentive for participant compliance with appropriate payment timeframes which will reduce risk to all MBSD participants.

2. Procedures Relating to Disputed Fines

The rules of the MBSD currently contain procedures whereby a participant can dispute any fine

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

[2] Securities Exchange Act Release No. 50642 (November 5, 2004), 69 FR 65662.

[3] Currently, the MBSD rules state that failure to pay a cash settlement obligation will result in the assessment of a fine. However, the MBSD Schedule of Charges refers to such charges as ''fees,'' and they have been processed as fees by MBSD in the past.

assessment through a formal appeal process. FICC believes that, consistent with the practice of the GSD, the fine process will be more effective and equitable and will provide participants with additional due process if an initial less formal dispute process is also included in MBSD's rules. The initial dispute process will be utilized by participants prior to availing themselves of the formal appeal process. A participant that becomes subject to a fine will have the opportunity within seven calendar days to dispute the fine by explaining in writing any mitigating circumstances that contributed to the participant's infraction and to request a fine waiver. Based on such written documentation provided by the participant, management will have the discretion to waive a fine if it believes that sufficient mitigating circumstances have been shown by the participant. If management waives a fine, it will have to inform the Membership and Risk Management Committee (''Committee'') at the next regularly scheduled Committee meeting and will have to explain its reasons for doing so. The Committee will then have the opportunity to overrule management's action with respect to the waiver. If management chooses to not waive a fine or if its waiver is overruled by the Committee, the participant will have the right to pursue the formal hearing process currently provided for in the MBSD's Rules.

FICC will also make parallel changes with respect to the fine dispute process to the MBSD's EPN rules.

In addition, FICC proposed certain technical changes to the MBSD's Schedules of Charges to (i) delete references to ''MBSCC'' and replace them with references to ''MBSD'' and (ii) eliminate obsolete fees which are no longer being charged by the MBSD.

III. Discussion

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to remove impediments to the perfection of a national system for the prompt and accurate clearance and settlement of securities transactions.[4] The Commission finds that FICC's proposed rule change is consistent with this requirement because it is designed to perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions by (i) encouraging participants to make timely payments of cash obligation items and margin to MBSD and (ii) clearly setting forth in MBSD's rules the informal procedures for disputing fines which should provide members with a more efficient and less burdensome method for the possible resolution of disputed fines before a full hearing takes place.

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 section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–FICC–2004–06) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[5]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E5–68 Filed 1–11–05; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–50977; File No. SR–NASD–2004–189]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Trade Reporting and Compliance Engine (''TRACE'') Fees and Implementation Date of Stage Two of Dissemination of TRACE Transaction Information

January 6, 2005.

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 December 28, 2004, the National Association of Securities Dealers, Inc. (''NASD''), filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in items I and II below, which items have been prepared by NASD. The NASD has filed the proposal as a ''non-controversial'' rule change pursuant to section 19(b)(3)(A)(iii) of the Act,[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission. 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

NASD is proposing to amend Rule 7010(k) to terminate the Bond Trade Dissemination Service (''BTDS'') Professional Delayed-Time Data Display Fee pilot program and the BTDS Non-Professional Real-Time Data Display fee, relating to Trade Reporting and Compliance Engine (''TRACE'') transaction data fees, and to amend the implementation date of certain amendments to NASD Rule 6250, relating to TRACE transaction data dissemination and approved by the SEC in SR–NASD–2004–094 (designated as ''Stage Two'' of the implementation of SR–NASD–2004–094) from February 1, 2005 to February 7, 2005. Below is the text of the proposed rule change. Proposed new language is in *italics*; proposed deletions are in brackets.

* * * * *

7010. System Services

(a) through (j) No change.

(k) Trade Reporting and Compliance Engine

The following charges shall be paid by participants for the use of the Trade Reporting and Compliance Engine (''TRACE''):

System fees	Transaction reporting fees	Market data fees
Level I Trade Report Only Web Browser Access—$20/month per user ID Level II Full Service Web Browser Access—$80/month per user ID.	Trades up to and including $200,000 par value—$0.475/trade; Trades between $201,000 and $999,999 par value—$0.002375 times the number of bonds traded/trade; Trades of $1,000,000 par value or more—$2.375/trade.	BTDS Professional Real-Time Data Display—$60/month per terminal, except

[4] 15 U.S.C. 78q–1(b)(3)(F).

[5] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

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

[4] 17 CFR 240.19b–4(f)(6).