

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51673; File No. SR-FICC-2005-06]

### Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Approving Proposed Rule Change To Change the Minimum Margin Deficiency Call Amount for Participants in Its Mortgage-Backed Securities Division

May 9, 2005.

#### I. Introduction

On March 11, 2005, the Fixed Income Clearing Corporation ("FICC") filed with the Securities and Exchange Commission ("Commission") proposed rule change SR-FICC-2005-06 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").<sup>1</sup> Notice of the proposal was published in the **Federal Register** on April 4, 2005.<sup>2</sup> No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

#### II. Description

FICC is amending the minimum margin deficiency call amount for participants in its Mortgage-Backed Securities Division ("MBSD") to the lesser of \$250,000 or 25 percent of the value of a participant's margin deposit. Currently, the MBSD's procedures establish a minimum margin deficiency call amount of \$1,000. Upon review, FICC has determined that the minimum margin deficiency call amount creates unnecessary operational burdens and allocation of resources for a collection of margin calls that FICC believes is insubstantial from a risk perspective. On average, the MBSD makes 17 margin calls per day of which approximately five are for amounts under \$250,000.

FICC seeks to harmonize the rules of its two divisions, the Government Securities Division ("GSD") and MSBD, wherever prudent and possible. The rules of the GSD provide for a minimum Clearing Fund deficiency call amount for margin requirement increases of the lesser of \$250,000 or 25 percent of the value of the member's collateral deposits.<sup>3</sup> Under the proposed rule, the minimum margin deficiency call amount for MBSD participants will be the lesser of \$250,000 or 25 percent of

the value of a participant's margin deposit. FICC believes this will eliminate the operational burdens associated with the collection of *de minimis* margin amounts and will harmonize the rules of FICC's two divisions.<sup>4</sup>

#### III. Discussion

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed 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.<sup>5</sup> The Commission finds that FICC's proposed rule change is consistent with this requirement because it will allow for a less burdensome application of its margin call process without presenting material risk to FICC or its participants. This should allow FICC to reallocate resources formerly associated with the collection of *de minimis* margin amounts, which will better enable FICC to safeguard the securities and funds in its custody or control or for which it is responsible.

#### 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-2005-06) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51668; File No. SR-NASD-2005-056]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change, and Amendment No. 1 Thereto, National Association of Securities Dealers, Inc. Eliminating the Directed Order Process in The Nasdaq Market Center

May 9, 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 April 21, 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. On May 2, 2005, Nasdaq filed Amendment No. 1 to the proposed rule change.<sup>3</sup> The Commission is publishing this notice, as amended, 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 is filing a proposed rule change to eliminate the Directed Order Process from the Nasdaq Market Center.<sup>4</sup> Nasdaq will implement the proposed rule change within 90 days of approval with the exact date being provided to market participants via a Head Trader Alert on <http://www.nasdaqtrader.com>. The text of the proposed rule change is available on Nasdaq's Web site (<http://www.nasdaq.com/LegalCompliance.stm>), at Nasdaq's principal office, and at the Commission's Public Reference Room.

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

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> In Amendment No. 1, Nasdaq amended NASD Rule 7010 to reflect the proposed elimination of the Directed Order Process.

<sup>4</sup> Nasdaq notes it has previously filed to eliminate the Directed Order Process as part of File No. NASD-2004-181. See Securities Exchange Act Release No. 50845, (December 13, 2004), 69 FR 76022 (December 20, 2004). Nasdaq will amend NASD-2004-181 to reflect the proposed elimination of the Directed Order process in the immediate filing.

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

<sup>2</sup> Securities Exchange Act Release No. 51441 (March 28, 2005), 70 FR 17133 (April 4, 2005).

<sup>3</sup> There is no minimum amount for deficiency calls where the subject member is subject to enhanced monitoring on what is known as the "watch list."

<sup>4</sup> As proposed and consistent with the applicable GSD rule, a minimum amount will not apply to deficiency calls where the subject participant is on the "watch list."

<sup>5</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>6</sup> 17 CFR 200.30-3(a)(12).