

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 will also be available for inspection and copying at the principal office of DTC. All submissions should refer to the File No. SR-DTC-2003-04 and should be submitted by May 19, 2003.

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. 34-47709; File No. SR-DTC-2003-07]

### Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of Proposed Rule Change To Establish a Transaction Look-Ahead Process

April 21, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on April 9, 2003, The Depository Trust Company ("DTC") 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 primarily by DTC. The Commission is publishing this notice to 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

DTC is seeking to establish a transaction look-ahead process ("Look-Ahead") which will reduce transaction blockage by applying the net amount of offsetting receive and deliver transactions in the same security rather than the gross amount of the receive transaction to a participant's net debit cap.<sup>2</sup>

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC 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. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.<sup>3</sup>

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

DTC's system controls prevent the processing of a transaction (*i.e.*, cause the transaction to recycle) when the deliverer has insufficient position or collateral, the receiver has insufficient collateral, or the processing of the transaction would cause the receiver's net debit cap to be breached. For purposes of these controls, each transaction is assessed individually without regard to offsetting transactions that might resolve any system control issue presented by the initial transaction itself.

In principle, a long series of back-to-back transactions could be blocked as a result of the first transaction failing. For example, if a transaction fails for insufficient position, collateral, or net debit cap, then a second transaction could fail because it is dependent on the first delivery to establish the necessary securities position, then a third could fail, and so on. This does in fact occur quite often in the money market instrument ("MMI") market because of the large values involved when issuing/paying agents sell new commercial paper to broker-dealers who then make deliveries to custodians, who in turn have maturities of commercial paper awaiting acceptance by the issuing/paying agents.

DTC plans to introduce Look-Ahead in June. Look-Ahead will reduce transaction blockage by applying the net amount of offsetting receive and deliver transactions in the same security rather than the gross amount of the receive transaction to a participant's net debit cap. Look-Ahead will identify receive transactions pending due to a net debit cap insufficiency and link them to offsetting delivery transactions in the same security pending for a quantity deficiency. DTC will calculate the net

effect of the offsetting transactions on the three participants involved, and if the net of the transactions results in positive risk management controls in all three accounts, the transactions will be completed. Initially, this capability will be available only for muni and corporate bonds, including MMIs where it is expected to have the widest application.

As a result of Look-Ahead, the number of recycling transactions will be reduced which could also reduce the need for intraday funding by participants and could help achieve a more efficient level of straight-through processing. Participants will not be required to make systemic changes and can continue to process their deliveries as they do today.

DTC believes that the proposed rule change is consistent with the requirements of section 17A of the Act<sup>4</sup> and the rules and regulations thereunder applicable to DTC. By applying the net amount of offsetting receive and deliver transactions in the same security rather than the gross amount of the receive transaction to a participant's net debit cap, the proposed rule change should reduce the number of blocked transactions at DTC which would promote the prompt and accurate clearance and settlement of securities transactions.

##### (B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, in the public interest, and for the protection of investors.

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

DTC has discussed this rule change proposal in its current form with various DTC participants and industry groups, a number of whom have worked closely with DTC in developing Look-Ahead.

#### 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

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

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

<sup>2</sup> The net debit cap, based upon the activity of the participant, is the maximum amount a participant may owe for transactions. Currently, the maximum allowable net debit cap is \$1.8 billion per participant.

<sup>3</sup> The Commission has modified the text of the summaries prepared by DTC.

<sup>4</sup> 15 U.S.C. 78q-1.

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-DTC-2003-07. 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 DTC.

All submissions should refer to File No. SR-DTC-2003-07 and should be submitted by May 19, 2003.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>5</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47713; File No. SR-FICC-2003-02]

### Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Cross-Guaranty Agreements to Which FICC Is a Party

April 21, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on January 8, 2003, the 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 primarily by FICC. 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 proposed rule change relates to cross-guaranty agreements to which FICC is a party.

#### 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 such statements.<sup>2</sup>

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

FICC is proposing to amend the rules ("Rules") of its Government Securities Division and Mortgage Backed Securities Division ("Divisions") to make clear that, in the event that an entity that is a member of both Divisions becomes a defaulting member as defined in a cross-guaranty agreement to which FICC is a party and FICC chooses to participate in the arrangement, FICC

will first offset the liquidation results of the Divisions prior to presenting its available net resources to other participating clearing corporations.

FICC's Rules provide that FICC may enter into cross-guaranty agreements. Cross-guaranty agreements are an important risk protection measure for clearing agencies. Generally, these agreements contain a guaranty from one clearing agency to another clearing agency that can be invoked in the event of the default of a common member. The guaranty generally provides that the excess resources of a defaulting common member remaining after the defaulting common member's obligations to the guaranteeing clearing agency have been satisfied will be used to satisfy the obligations of the defaulting common member that remain unsatisfied at the other clearing agency. The Multilateral Agreement provides for the allocation of such excess resources among all clearing corporations in a deficit position with respect to a defaulting common member.

If a clearing corporation that is a party to the multilateral cross-guaranty agreement<sup>3</sup> suspends a person or declares a person insolvent pursuant to its rules and if such person is a common member of two or more clearing agencies, such clearing agency must give each other clearing agency a notice that it has ceased to act for the member and that it will participate in the arrangement. Each participating clearing agency has a certain amount of time pursuant to the multilateral cross-guaranty agreement to determine its "available net resources," which is the sum, positive or negative, derived after the application of any applicable liquidation procedures by adding the amounts owed by the participating clearing agency to the defaulting member and subtracting the amounts owed by the defaulting member to the participating clearing agency.

FICC desires to make clear in its rules that it will first offset the available net resources of each of its Divisions and

<sup>3</sup> FICC's predecessors, the Government Securities Clearing Corporation ("GSCC") and the MBS Clearing Corporation ("MBSCC"), filed rule filings in 2001 to enter into a multilateral cross-guaranty agreement with The Depository Trust Company, National Securities Clearing Corporation, Emerging Markets Clearing Corporation, and The Options Clearing Corporation ("Multilateral Cross-Guaranty Agreement") and to make incidental rule changes. Securities Exchange Act Release No. 45868 (May 2, 2002), 67 FR 31394 [File Nos. SR-DTC-2000-21, SR-OCC-2001-01, SR-NSCC-2001-13, SR-EMCC-2001-02, SR-GSCC-2001-12, and SR-MBSCC-2001-03]. Prior to that time, GSCC and MBSCC were parties to various bilateral cross-guaranty arrangements, which were terminated when the parties entered into the multilateral cross-guaranty agreement.

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

<sup>2</sup> The Commission has modified parts of these statements.

<sup>5</sup> 17 CFR 200.30-3(a)(12).