

claims and expenses, an appropriate reserve will be accumulated to respond in years when claims and expenses exceed premiums. Furthermore, to the extent losses over the long term are lower than projected, Cinergy Captive could correspondingly lower premiums, reducing the System Companies' premium expenses. In addition, if losses are lower than predicted, the captive may be able to reduce the amount of its reserves and return excess capital to the System Companies.

Cinergy states that, based on actuarial models with a high confidence factor, it is expected that the captive would not experience losses in excess of approximately \$10 million in the first year of operation. In the unlikely event of losses exceeding this amount, not covered by outside insurance and accumulated claim reserves, additional capital from Cinergy would be needed. Commercial insurance will continue to respond to any claims in excess of the retained risks to ensure coverage will be available to the Cinergy System. Finally, to assure its financial strength and integrity (it must comply with strict Vermont capital-to-premium requirements of approximately \$1 of capital for every \$5 of net premium), Cinergy Captive will attempt to purchase aggregate "stop loss" protection from a commercial insurer.

The benefits to be obtained from the use of a captive insurance subsidiary are, in sum: (1) Reduced System exposure to retained risks and enhanced risk management control; (2) reduced overhead charges for commercial insurance underwriting; (3) direct access to global reinsurers; (4) continued choice of deductibles; (5) greater control and input over the claims management process; and (6) less reliance on the commercial insurance market resulting in less volatility of future premiums.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-49212; File No. SR-FICC-2003-05]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing of a Proposed Rule Change Relating to Additional Account Structures

February 9, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on July 9, 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 would amend the rules of both the Government Securities Division ("GSD") and the Mortgage-Backed Securities Division ("MBSD") of FICC with respect to their additional account structures.

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.²

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

GSD and MBSD both permit members to open and maintain accounts in addition to their primary accounts. Additional accounts developed as an administrative convenience provided to members who wanted to keep certain activities segregated from their primary accounts. The proposed rule change

would address certain legal risks associated with these accounts.

Government Securities Division

For each additional account opened for a member, GSD assigns a unique participant ID number and separately calculates daily clearing fund requirements, funds-only settlement requirements, and net settlement positions based solely upon the activity in the additional account.³ Currently, the opening and maintenance of additional accounts requested by a GSD member is governed by an agreement between the member and GSD.⁴ Pursuant to the additional account agreement, the member agrees to be responsible for all of the obligations and liabilities associated with the additional account; however, GSD's rules do not address the opening and maintenance of these additional accounts.⁵

The proposed rule change would reflect the principles set forth in the additional account agreement and those that FICC management has defined to govern these accounts. Specifically, additional accounts that are opened for someone other than a member itself or for the member's wholly-owned subsidiary shall require the approval of FICC's Membership and Risk Management Committee. The proposed rule change makes clear that GSD members will be responsible for all of the obligations arising under GSD's rules that are associated with additional accounts. The additional account entity will not have any proprietary interest with respect to the additional account, and will not have any rights or privileges of GSD members. GSD will have the right to deny the opening of an additional account if it believes that the additional account entity presents risk to FICC, such as legal risk from an insolvency regime that is adverse to GSD's rights.

³ The maintenance of such accounts has billing implications as set forth in GSD's fee structure.

⁴ The additional account structure permitted by GSD should be contrasted with GSD's executing firm feature, which permits a member to submit trades of a non-GSD member with which the member has a correspondent relationship. Executing firm trades are commingled with the member's own trades in the member's GSD account and are not separated from the member's other activity (including other executing firm activity) for any purpose. Therefore, the member's clearing fund requirement, funds-only settlement requirement, and net settlement position reflects all executing firm activity in its GSD account.

⁵ The only exceptions to this are with respect to repo brokers who are expressly required to open second accounts for their brokered repo activity and GSD's fee structure which includes charges associated with the maintenance of additional accounts.

¹ 15 U.S.C. 78s(b)(1).

² The Commission has modified parts of these statements.

Mortgage-Backed Securities Division

Currently, MBSD rules expressly permit participants to open additional accounts upon request for themselves or for any other entity. FICC has reviewed MBSD's current rules and is proposing to enhance them by making clear that (i) additional account holders do not have membership or property rights with respect to additional accounts and (ii) MBSD may apply collateral associated with one account of a participant to satisfy obligations among any or all of that participant's accounts. These provisions will serve to protect MBSD in the event an additional account holder makes a claim with respect to the property, proceeds, or collateral associated with the activity of the account.

FICC believes the proposed rule change is consistent with the requirements of section 17A of the Act and the rules and regulations thereunder because it addresses and limits the legal risk to FICC and its members that arises from the opening and maintenance of additional accounts.

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

FICC does not believe that the proposed rule change would have an impact on or impose a 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 nor 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 the 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-2003-05. 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, 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 will also be available for inspection and copying at the principal office of FICC and on FICC's Web site at <http://www.ficc.com/gov/gov.docs.jsp?NS-query> and at <http://www.ficc.com/mbs/mbs.docs.jsp/NS-query>. All submissions should refer to the File No. SR-FICC-2003-05 and should be submitted by March 5, 2004.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁶

Margaret H. McFarland,

Deputy Secretary.

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⁶ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-49205; File No. SR-IFX-2004-01]

Self-Regulatory Organization; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Inet Futures Exchange, LLC Relating to Its Name Change From the Island Futures Exchange, LLC to the Inet Futures Exchange, LLC

February 6, 2004.

Pursuant to section 19(b)(7) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-7 under the Act,² notice is hereby given that on January 14, 2004, the Inet Futures Exchange, LLC ("IFX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change described in items I, II, and III below, which items have been prepared by IFX. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. On December 2, 2003, IFX filed the proposed rule change with the Commodity Futures Trading Commission ("CFTC"), together with a written certification under section 5c(c) of the Commodity Exchange Act³ ("CEA") in which IFX indicated that the effective date of the proposed rule change would be December 5, 2003.

I. Self-Regulatory Organization's Description of the Proposed Rule Change

The purpose of the proposed rule change is to change the name of the Exchange from the Island Futures Exchange, LLC to the Inet Futures Exchange, LLC. The text of the proposed rule change is available at the Office of the Secretary, Exchange, and at the Commission.

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

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

¹ 15 U.S.C. 78s(b)(7).

² 17 CFR 240.19b-7.

³ 7 U.S.C. 7a-2(c).