

February 6, 2025

Via Electronic Mail: name@email.com

Vanessa A. Countryman
Secretary
Securities and Exchange Commission
100 F Street NE
Washington, DC 20549-1090

Re: Notice of Filing of Proposed Rule Change to Modify the GSD Rules Relating to the Adoption of a Trade Submission Requirement (File No. SR-FICC-2024-009)

Dear Ms. Countryman:

MFA¹ appreciates this opportunity to submit these supplemental comments to the U.S. Securities and Exchange Commission (“**Commission**” or “**SEC**”) regarding the above-referenced proposed rule changes by the Fixed Income Clearing Corporation’s (“**FICC**”),² as modified by a partial amendment filed by FICC on September 24, 2024 (“**Proposed Rules**”).³

While the amendment removed certain anti-competitive provisions in the Proposed Rules, FICC did not address other material issues raised in our prior comments, including the ill-considered Triennial Review Requirement (described below).⁴ Failing to remedy these issues increases the costs and risks of

¹ Managed Funds Association (MFA), based in Washington, D.C., New York City, Brussels, and London, represents the global alternative asset management industry. MFA’s mission is to advance the ability of alternative asset managers to raise capital, invest it, and generate returns for their beneficiaries. MFA advocates on behalf of its membership and convenes stakeholders to address global regulatory, operational, and business issues. MFA has more than 180 fund manager members, including traditional hedge funds, private credit funds, and hybrid funds, that employ a diverse set of investment strategies. Member firms help pension plans, university endowments, charitable foundations, and other institutional investors diversify their investments, manage risk, and generate attractive returns throughout the economic cycle.

² Fixed Income Clearing Corporation; Notice of Filing of Proposed Rule Change to Modify the GSD Rules Relating to the Adoption of a Trade Submission Requirement, Rel. No. 34-100417 (June 25, 2024), 89 Fed. Reg. 54602 (July 1, 2024), available at: <https://www.govinfo.gov/content/pkg/FR-2024-07-01/pdf/2024-14378.pdf>.

³ Fixed Income Clearing Corporation; Notice of Filing of Partial Amendment No. 1 to Proposed Rule Change To Modify the GSD Rules Relating to the Adoption of a Trade Submission Requirement, Rel. No. 34-101340 (Oct. 15, 2024), 89 FR 84211 (Oct. 21, 2024) (“**Partial Amendment No. 1**”). Text of the proposed changes made by Partial Amendment No. 1 to the Proposed Rules is available at: <https://www.sec.gov/comments/sr-ficc-2024-009/srficc2024009-524075-1504142.pdf>.

⁴ See Letter from Jennifer W. Han, Executive Vice President, Chief Counsel & Head of Global Regulatory Affairs, MFA, to Vanessa Countryman, Secretary, SEC (Aug. 13, 2024) (“**MFA Comment Letter on FICC-2024-009**”), available at: <https://www.mfaalts.org/wp-content/uploads/2024/08/MFA-Comment-Letter-on-FICC-2024-009-As-submitted-8.13.24.pdf>.

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clearing, including by requiring direct members to disclose their customers' sensitive trading strategies to third parties and by raising additional barriers to direct clearing membership, all for little apparent benefit. Moreover, a recent proposal by the Chicago Mercantile Exchange ("**CME**") further demonstrates that the FICC proposal is excessive and unnecessary.

We encourage the Commission to work with FICC to amend the Proposed Rules to ensure that FICC does not unreasonably raise the costs and risks of clearing.

Triennial Review Requirement

As we previously commented, the most notable example of the Proposed Rules imposing onerous new membership requirements is the requirement that members perform an independent review every three years to confirm they are complying with the trade submission requirement ("**Triennial Review Requirement**").⁵ This prescriptive requirement is entirely unnecessary as there are other proposed mechanisms designed to address FICC's underlying concerns.

In practice, the proposed FICC requirement will likely require clearing firms to engage an independent consultant to conduct the review, which will require firms to produce significant amounts of sensitive trading data to third parties, raising intellectual property leakage concerns. In addition to this, the cost of providing this information will raise barriers to entry for direct membership in FICC, at a time when the Commission should be working to encourage membership in FICC. The Triennial Review Requirement disincentivizes direct membership in FICC and is unnecessary given the proposed annual trade submission attestation, the policy and procedure requirements, and the expanded FICC examination authority.⁶

Moreover, no other clearing agency has adopted such a requirement, and another potential treasury CCA has proposed a significantly more reasonable approach. Recently the CME announced its intention to provide U.S. Treasury and repo clearing services.⁷ In the new CME rulebook, which the CME filed with the Commission, CME proposed an alternative to the FICC approach. Specifically, under the proposed CME rules, CME Securities Clearing Inc. ("**CMESC**") "will conduct periodic routine reviews of Members, at least every three years, to monitor compliance with the obligation under CMESC's rules and the general clearing

⁵ Several other proposed ongoing membership requirements are costly, unnecessary, and have not been adequately justified by FICC. For example, the Proposed Rules would provide FICC with discretion to demand that applicants to FICC membership hire an independent third-party consultant to review the applicant's business plan at its own expense. The Proposed Rules also would require potential netting members to be in operation for at least a year (rather than six months as is currently required), which could limit the ability of funds to register and obtain direct membership through affiliated entities in advance of the Commission's mandate.

⁶ Section 17A(b)(3)(F) of the Securities Exchange Act of 1934 requires clearing agency rules to protect the public interest and prohibits rules that unfairly discriminate in the admission of participants or among participants in the use of the clearing agency or from regulating "matters not related to the purposes of [Section 17A] or the administration of the clearing agency." We believe the Proposed Rules run afoul of this provision.

⁷ See <https://www.cmegroup.com/trading/interest-rates/files/us-treasury-and-repo-clearing-services-overview.pdf>.

mandate.”⁸ The CME proposal is designed to meet the same regulatory objective but in a more reasonable manner, and FICC has offered no justification for its costly and excessive alternative.

As we continue toward the prospect of a multiple CCP environment, it is critical that the Commission carefully consider how CCAs will surveil the clearing mandate once it goes into effect. We believe the proposed CME approach is more reasonable than the current FICC proposal. For this and the other reasons set forth above, we believe FICC should eliminate the Triennial Review Requirement.

* * *

We appreciate the opportunity to provide our comments to the Commission regarding the Proposed Rule, and we would be pleased to meet with the Commission and its staff to discuss our comments. If the staff has questions or comments, please do not hesitate to contact Matthew Daigler or the undersigned at (202) 730-2600 with any questions regarding this letter.

Respectfully submitted,

/s/ Jennifer W. Han

Jennifer W. Han
Chief Legal Officer and Head of Global Regulatory Affairs
MFA

cc: The Hon. Mark T. Uyeda, Acting Chair
The Hon. Hester M. Peirce, Commissioner
The Hon. Caroline A. Crenshaw, Commissioner
David Saltiel, Acting Director, Division of Trading and Markets

⁸ See proposed Procedures of CMESC, Procedure 9-2, available at: <https://www.sec.gov/files/cmesc-ca-1-exhibit-e-4-procedures-12-13-24.pdf>.