

then present that net amount as its "available net resources" for participation with the other clearing agencies. FICC believes that it already has the authority in its rules to do so because the rules provide that it may enter into cross-guaranty agreements and thus follow their provisions.⁴ However, FICC believes that it is prudent to make this explicit in its rules for the avoidance of any doubt. The proposed offset is consistent with the rationale for combining GSCC and MBSCC into FICC because it further optimizes the consolidation of risk management processes.

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 clarifies FICC's rules and further optimizes the synergies created by the combination of GSCC and MBSCC into FICC.

(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

The foregoing rule change has become effective pursuant to section 19(b)(3)(A)(i) of the Act⁵ and rule 19b-4(f)(1)⁶ thereunder because it constitutes a stated policy, practice, or interpretation with respect to the meaning, enforcement, or administration of an existing rule. At any time within sixty days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the

Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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-2003-02. 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 will also be available for inspection and copying at the principal office of FICC. All submissions should refer to the File No. SR-FICC-2003-02 and should be submitted by May 19, 2003.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁷

Jill M. Peterson,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47706; File No. SR-NASD-2003-33]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change and Amendment No. 1 by the National Association of Securities Dealers, Inc. Relating to Trading of Certain Holding Company Depository Receipts

April 21, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act" or "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on March 7, 2003, 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 and II below, which Items have been prepared by Nasdaq. On April 17, 2003, Nasdaq filed Amendment No. 1 to the proposed rule change.³ The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons, and to approve the amended proposed rule change on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to adopt standards for the trading of certain Trust Issued Receipts known as Holding Company Depository Receipts ("HOLDRs") on an over-the-counter basis.

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

In its filing with the Commission, Nasdaq included statements concerning the purpose of, and basis for, the

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See letter from John D. Nachmann, Senior Attorney, Nasdaq, to Katherine A. England, Assistant Director, Division of Market Regulation, Commission, dated April 16, 2003 ("Amendment No. 1"). Amendment No. 1: (1) Makes clarifications and technical corrections to the proposed rule text and the purpose section of the filing; (2) discusses in the purpose section of the proposal Nasdaq's short sale exemption of certain HOLDRs, pursuant to NASD Rule 3350; (3) clarifies, by updating Exhibit 1, which HOLDRs specifically do not satisfy Nasdaq's generic listing and trading requirements pursuant to Rule 19b-4(e); and (4) provides additional detail on the component securities for each HOLDR, including share price, trading volume, and public float data in new Exhibit 3.

⁴ The parties have amended the multilateral cross-guaranty agreement to reflect the merger of GSCC and MBSCC and the resulting FICC, as well as to reflect the offset between the Divisions of FICC, that is the subject of this rule filing. The offset between the Divisions of FICC is similar to the offset between DTC and its Mortgage-Backed Securities Division (which no longer exists) that was contained in the version of the multilateral cross-guaranty agreement and was included in the rule filings the Commission approved.

⁵ 15 U.S.C. 78s(b)(3)(A)(i).

⁶ 17 CFR 240.19b-4(f)(1).

⁷ 17 CFR 200.30-3(a)(12).