

FIA PTG

PRINCIPAL TRADERS GROUP

2001 K Street NW, Suite 725, Washington, DC 20006 | Tel +1 202.466.5460

October 11, 2024

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

**Re: SR-FICC-2024-005, SR-FICC-2024-006, SR-FICC-2024-007, SR-FICC-2024-009
(Access, Margin & Trade Submission)**

Dear Ms. Countryman:

The FIA Principal Traders Group (“FIA PTG”)¹ appreciates the opportunity to provide further comments on the Fixed Income Clearing Corporation’s (“FICC”) proposals to revise its customer clearing access models,² to modify its margin segregation rules,³ and to adopt a trade submission requirement (collectively, the “Proposals”). While we appreciate FICC providing more information regarding its offering, we do not believe that all of the concerns raised regarding the Proposals have been addressed.⁴ Failing to address these concerns in a timely manner calls into question customers’ ability to comply with the Securities and Exchange Commission (“SEC” or the “Commission”) clearing mandate and could negatively impact Treasury markets more broadly.

FIA PTG has consistently supported efforts to expand central clearing of U.S. Treasury securities. Using our members’ experience with central clearing in other asset classes, we have attempted to identify critical issues that we believe must be resolved to facilitate a successful transition.⁵ It is imperative that action is taken now to ensure clearinghouse rules “facilitate access

¹ FIA PTG is an association of firms, many of whom are broker-dealers, who trade their own capital on exchanges in futures, options and equities markets worldwide. FIA PTG members engage in manual, automated and hybrid methods of trading, and they are active in a wide variety of asset classes, including equities, fixed income, foreign exchange and commodities. FIA PTG member firms serve as a critical source of liquidity, allowing those who use the markets, including individual investors, to manage their risks and invest effectively. The presence of competitive professional traders contributing to price discovery and the provision of liquidity is a hallmark of well-functioning markets. FIA PTG advocates for open access to markets, transparency and data-driven policy and has previously made recommendations about a variety of equity market structure issues, including Regulation NMS.

² 89 Fed. Reg. 21362 (Mar. 27, 2024) (“Access Model Proposal”).

³ 89 Fed. Reg. 21603 (Mar. 28, 2024) (“Margin Proposal”).

⁴ Letter from Laura Klimpel to Vanessa Countryman (Aug. 1, 2024) (“FICC Response Letter”) available at <https://www.sec.gov/comments/sr-ficc-2024-007/srficc2024007-500915-1465682.pdf>.

⁵ See generally “Clearing a Path to a More Resilient Treasury Market,” FIA PTG (July 2021), available at: https://www.fia.org/sites/default/files/2021-07/FIA-PTG_Paper_Resilient%20Treasury%20Market_FINAL.pdf.

to clearance and settlement services of all eligible secondary market transactions in U.S. Treasury securities, including those of indirect participants.”⁶ Given the quickly approaching compliance date of the mandate, we recommend that the Commission and the official sector take an active role in ensuring an efficient market transition to central clearing.

I. Prioritizing Customer-Access Reforms

FIA PTG continues to recommend important enhancements to the current FICC clearing offerings to ensure customers are able to efficiently access clearing and settlement services. Market participants have advocated for many of these reforms for several years, and it is important they are addressed before mandated central clearing takes effect. For example:

- **Customer Cross-Margining.** Direct members at FICC can benefit from the cross-margining of correlated futures positions at CME, which significantly reduces overall clearing costs. However, customers cannot, resulting in an uneven playing field in a market that will soon be subject to mandatory clearing. Failing to extend cross-margining to customers will increase the costs of trading, which should be expected to negatively impact Treasury market liquidity. We continue to look for more transparency from FICC regarding the anticipated timeline for extending this service.
- **Porting of Customer Positions.** FICC states that it “intends to propose amendments to its Rules to include market standard provisions related to porting once there is greater clarity regarding its customer access models” and that it will “propose rule changes to facilitate porting before *December 31, 2025.*”⁷ Porting of customer positions is an important customer protection provided by central counterparties (“CCPs”) in other asset classes. It is important that customers have the ability to port positions well before the clearing mandate takes effect, which will require FICC to act on this recommendation well in advance of the December 31, 2025 deadline.
- **Minimum Clearing Fund Requirement for Customers.** FICC continues to propose requiring customers to post at least \$1 million in cash in any segregated margin account established with a clearing member. FICC now suggests that this requirement is necessary to ensure there are no competitive disparities between customers and direct participants (since direct participants are also subject to a similar minimum). However, as we have previously explained, applying this requirement to customers as proposed actually *increases* competitive disparities. In particular, while direct members have one clearing relationship with FICC, customers may be required to establish a separate clearing relationship with each executing counterparty due to a lack of “done-away” clearing, meaning that the \$1 million minimum will apply to each such clearing relationship, further increasing costs (particularly for smaller market participants) and potentially limiting the number of execution counterparties with whom customers

⁶ 17 C.F.R. § 240.17ad-22(e)(18)(i), § 240.17ad-22(e)(18)(iv)(C)

⁷ FICC Response Letter at 3.

interact. In addition, direct members currently benefit from other material advantages that customers do not, such as cross-margining savings.

- **Treatment of Customer Positions in a Clearing Member Default.** We understand that under the proposed agent clearing model, in the event of a default of a clearing member, FICC will automatically close-out non-defaulting customer positions instead of permitting the customer to settle its outstanding positions directly through FICC. We appreciate FICC’s statement that it is “considering amendments to the Proposal that would give [it] the option to effectuate such settlement” instead.⁸ This change, in connection with the commitment to facilitate porting discussed above, would result in a fairer, safer, and more efficient default management process for non-defaulting customers.
- **Treatment of Non-Defaulting Customer Margin.** Under Section 10(b) of Rule 4 of FICC’s proposed rule changes, FICC reserves the right to *not return* Excess Segregated Customer Margin of one customer if its clearing member owes an obligation to FICC for any *other* customer. This appears to introduce fellow-customer risk in the segregated margin models, and FICC offers no rationale as to why non-defaulting customers should be penalized in the event another customer fails to perform.

II. Addressing Bundling of Clearing & Execution Services

We have previously explained that market participants will be unable to comply with the SEC clearing mandate unless a “done-away” client clearing service is available. For example, when members execute cash transactions on an inter-dealer broker platform, the transaction is necessarily a “done-away” transaction because the inter-dealer broker serves as the execution counterparty to both sides of the trade, and the inter-dealer broker does not offer client clearing services. Thus, participants on such platforms require a clearing firm to provide done-away clearing services in order to clear those transactions. A “done-away” clearing offering is similarly required for repo transactions to ensure customers are able to transact with a variety of counterparties in an efficient manner.

We continue to be greatly concerned about the lack of meaningful progress in this area. While FICC continues to note that “done-away” clearing is already being offered today by a certain limited number of clearing members, its response also lists a number of alleged impediments to further expansion without providing a clear path forward. We are also concerned with the suggestion that clearing members may have “important and legitimate reasons” to limit a client’s execution counterparties. A cornerstone of central clearing is replacing bilateral counterparty credit exposures with a regulated clearing agency, thus eliminating counterparty credit risk between execution counterparties and enhancing overall market liquidity and resiliency.

⁸ FICC Response Letter at 26.

III. Other Outstanding Concerns

In addition to the issues above, we continue to be concerned about the following aspects of the Proposals:

- **Triennial Trade Submission Review**. FICC continues to propose an “independent trade submission review” every three years. This requirement would result in significant costs to the entire market and would require the disclosure of commercially sensitive trading data to third-party firms. It is not necessary to support the Commission’s mandate, has no equivalent in any other asset class, and FICC provides no justification for such an unprecedented requirement.
- **Data Regarding Use of Various Client Access Models**. We appreciate FICC’s commitment to publish regular information regarding how its various access models are being used in practice, including “volumes of trading through each access model, including number of transactions and total notional.”⁹ However, in addition to publishing information regarding the number of members that have “enabled” each client access model, FICC should provide the number of clearing members who are in fact clearing more than *de minimis* volumes pursuant to each such model, and clearly separate-out “done-with” and “done-away” activity.

IV. Conclusion

With a little more than a year until the Commission’s cash clearing mandate becomes effective, it is critical that the industry resolves existing impediments to client clearing now. We look forward to continuing to engage with FICC and the Commission to facilitate an efficient transition of Treasury market activity to central clearing.

If you have any questions, please do not hesitate to contact Joanna Mallers at jmallers@fia.org.

Respectfully,

FIA Principal Traders Group



Joanna Mallers
Secretary

⁹ FICC Response Letter at 20.

Vanessa Countryman, U.S. Securities and Exchange Commission

October 11, 2024

Page 5

cc: Gary Gensler, Chair
Hester M. Peirce, Commissioner
Caroline A. Crenshaw, Commissioner
Mark T. Uyeda, Commissioner
Jaime Lizárraga, Commissioner