

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act⁴ in general and furthers the objectives of Section 6(b)(1) of the Act⁵ in particular in that it is designed to enforce compliance by Amex members and persons associated with its members with the rules of the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will impose no burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

The Exchange has not solicited or received any comments on this proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 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 90 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 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. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-Amex-2005-009 on the subject line.

Decorum and operational matters; and Part 3 ("Reporting Violations") which covers the late submission of routine reports.

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(1).

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number SR-Amex-2005-009. 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, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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. Copies of such filing also will be available for inspection and copying at the principal office of Amex. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-Amex-2005-009 and should be submitted on or before March 29, 2005.

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

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51282; File No. SR-CBOE-2004-82]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Granting Approval to Proposed Rule Change Relating to Exchange Rule 17.10(d)—Review of Decision Not To Initiate Charges

March 1, 2005.

On December 8, 2004, the Chicago Board Options Exchange, Incorporated

("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² a proposed rule change to: (1) Amend Exchange Rule 17.10(d), relating to the process for reviewing decisions not to initiate charges, to transfer from the President of the Exchange to the Exchange's Regulatory Oversight Committee ("ROC") the authority to review and refer to the Exchange's Board of Directors ("Board") decisions of the Business Conduct Committee ("BCC") to decline to authorize the issuance of a statement of charges that is recommended by Exchange staff; and (2) change the time frame in which to conduct such a review from 30 days to 45 days from the date the Exchange serves the subject of the proceedings with notice that the BCC will not initiate charges. The proposed rule change was published for comment in the **Federal Register** on January 12, 2005.³ The Commission received no comments on the proposal.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange⁴ and, in particular, the requirements of Section 6(b) of the Act⁵ and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change is consistent with Section 6(b)(5) of the Act⁶ because it is designed to enhance the independence of the Exchange's regulatory structure and processes by transferring from the President to the Exchange's ROC, which is composed solely of public directors and is charged with overseeing regulation, the authority to review and refer to the Board a decision by the BCC to not issue a statement of charges.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁷ that the proposed rule change (SR-CBOE-2004-82) be, and hereby is, approved.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 50964 (January 5, 2005), 69 FR 2200.

⁴ In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

⁷ 15 U.S.C. 78s(b)(2).

⁶ 17 CFR 200.30-3(a)(12).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁸

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51284; File No. SR-CHX-2004-41]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendment Nos. 1 and 2 Thereto by the Chicago Stock Exchange, Incorporated to Trade the streetTRACKS® Gold Shares Pursuant to Unlisted Trading Privileges

March 1, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on December 20, 2004, the Chicago Stock Exchange, Incorporated (“CHX” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. The proposal would permit the Exchange to trade the streetTRACKS® Gold Shares (“GLD” or “Shares”) pursuant to unlisted trading privileges (“UTP”). The Shares represent units of fractional undivided beneficial interests in and ownership of the streetTRACKS® Gold Trust (“Trust”). The Commission previously has approved GLD for original listing and trading on the New York Stock Exchange (“NYSE”).³

On January 31, 2005, CHX filed Amendment No. 1⁴ and on February 23, 2005, CHX filed Amendment No. 2⁵ to

the proposal. The Commission is publishing this notice and order to solicit comments on the proposed rule change, as amended, from interested persons and to approve the proposed rule change on an accelerated basis.

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

CHX proposes to trade GLD pursuant to UTP. The text of the proposed rule change is available on the Exchange's Web site (<http://www.chx.com>), at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

In its filing with the Commission, the Exchange 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 III below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The Exchange proposes to trade the streetTRACKS® Gold Shares (ticker symbol: GLD) pursuant to UTP. The value of each Share will correspond to a fixed amount of gold⁶ and fluctuate with the spot price of gold. Purchasing Shares in the Trust provides investors a mechanism to participate in the gold market.

a. Description of the Gold Market

The global trade in gold consists of over-the-counter (“OTC”) transactions in spot, forwards, and options and other derivatives, together with exchange-

traded futures and options. The global gold market consists of the following components, described briefly below.

(1) The OTC Market

The OTC market trades on a continuous basis 24 hours per day and accounts for most global gold trading. Liquidity in the OTC market can vary from time to time during the course of the 24-hour trading day. Fluctuations in liquidity are reflected in adjustments to dealing spreads—the differential between a dealer's “buy” and “sell” prices. According to the Trust's Registration Statement, the period of greatest liquidity in the gold market is typically when trading in the European time zones overlaps with trading in the United States, which is when OTC market trading in London, New York, and other centers coincides with futures and options trading on the Commodity Exchange Inc. (“COMEX”), a division of the New York Mercantile Exchange, Inc. (“NYMEX”). This period lasts for approximately four hours each New York business day morning.

The OTC market has no formal structure and no open-outcry meeting place. The main centers of the OTC market are London, New York, and Zurich. Bullion dealers have offices around the world, and most of the world's major bullion dealers are either members or associate members of the London Bullion Market Association (“LBMA”), a trade association of participants in the London bullion market.

There are no authoritative published figures for overall worldwide volume in gold trading. There are certain published sources that do suggest the significant size of the overall market. The LBMA publishes statistics compiled from the five members offering clearing services.⁷ The monthly average daily volume figures published by the LBMA for 2003 range from a high of 19 million to a low of 13.6 million troy ounces per day.⁸ COMEX publishes price and volume statistics for transactions in contracts for the future delivery of gold. COMEX figures for 2003 indicate that the average daily volume for gold

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 50603 (October 28, 2004), 69 FR 64614 (November 5, 2004) (“NYSE Approval Order”).

⁴ In Amendment No. 1, CHX replaced the filing in its entirety to, among other things: (1) Add a description regarding gold market regulation; (2) address the category of entities that could act as Authorized Participants (as defined below) and information barriers requirements amongst such entities; (3) address the ability of Authorized Participants to separate Baskets (as defined below); (4) state when Shares may be redeemed; (5) clarify that last sale prices for the Shares are disseminated on a real-time basis; and (6) clarify that the Shares would trade until 4:15 p.m. Eastern Time.

⁵ In Amendment No. 2, CHX replaced the filing in its entirety by amending the proposed rule text to: (1) Replace the phrase “member organization”

with the word “Participant” to reflect the demutualization of CHX; (2) allow an Associated Person of a Participant Firm acting as a specialist in the Shares to act in a market-making capacity if the Associated Person obtains prior written consent from the Exchange that the Associated Person and the Participant have established information barriers sufficient to restrict the flow of privileged information between the Associated Person and the Specialist Participant; and (3) describe such information barriers.

⁶ Initially, each Share will correspond to one-tenth of a troy ounce of gold. The amount of gold associated with each Share is expected to decrease over time as the Trust incurs and pays maintenance fees and other expenses.

⁷ Information regarding clearing volume estimates by the LBMA can be found at http://www.lbma.org.uk/clearing_table.htm. The three measures published by LBMA are: volume, the amount of metal transferred on average each day measured in million of troy ounces; value, measured in U.S. dollars, using the monthly average London p.m. fixing price; and the number of transfers, which is the average number recorded each day. The statistics exclude allocated and unallocated balance transfers where the sole purpose is for overnight credit and physical movements arranged by clearing members in locations other than London.

⁸ See NYSE Approval Order, 69 FR at 64614.