

action adequately remedies a conflict, will be properly recorded in the minutes of the Board or other appropriate records, and such minutes or other records shall be made available to the Commission upon request.

13. The Trust will not accept a purchase order from a Qualified Plan if such purchase would make the Qualified Plan shareholder an owner of 10 percent or more of the assets of such Fund unless such Qualified Plan executes an agreement with the Trust governing participation in such Fund that includes the conditions set forth herein to the extent applicable. A Qualified Plan 1 or Qualified Plan participant will execute an application containing an acknowledgment of this condition at the time of its initial purchase of shares of any Fund.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47573; File No. SR-CBOE-2003-12]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Proposing To Extend the Rapid Opening System Pilot Program

March 26, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on March 20, 2003, the Chicago Board Options Exchange, Inc., ("CBOE" 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 prepared by the Exchange. 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

CBOE proposes to extend the Rapid Opening System ("ROS") pilot program until September 30, 2003 or such time as the Commission has approved ROS

on a permanent basis.<sup>3</sup> The text of the proposed rule change appears below. New text is in italics. Deleted text is in brackets.

#### Rapid Opening System

##### Rule 6.2A

(a)-(c) No change.

(d) Pilot Program.

This Rule (and the sentences in Rule 6.2 and Rule 6.45 referring to this Rule) will be in effect until [March 31, 2003] *September 30, 2003* on a pilot basis.

\* \* \* Interpretation and Policies:

.01-.02 Unchanged.

\* \* \* \* \*

#### 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 IV 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

On February 9, 1999, the Commission approved, on a pilot basis, the implementation of ROS.<sup>4</sup> ROS is a system developed by CBOE to open an entire options class, all series, as a single event, based on a single underlying value. The ROS pilot program is due to expire on March 31, 2003.<sup>5</sup> The Exchange proposes to extend the ROS pilot until September 30, 2003 or such time as the Commission has approved ROS on a permanent basis.

The Exchange recently submitted a proposed rule filing to the Commission

<sup>3</sup> The request to permanently approve ROS is being considered separately under SR-CBOE-2002-55.

<sup>4</sup> See Securities Exchange Act Release No. 41033 (February 9, 1999), 64 FR 8156 (February 18, 1999) (approving SR-CBOE-98-48). ROS is governed by CBOE Rule 6.2A.

<sup>5</sup> The Commission has extended the ROS pilot program four times. See Securities Exchange Act Release Nos. 42596 (March 30, 2000), 65 FR 18397 (April 7, 2000) (extending the pilot until September 30, 2000); 43395 (September 29, 2000), 65 FR 60706 (October 12, 2000) (extending the pilot until September 30, 2001); 44891 (October 1, 2001), 66 FR 51483 (October 9, 2001) (extending the pilot until September 30, 2002); and 46572 (September 30, 2002), 67 FR 62508 (October 7, 2002) (extending the pilot until March 31, 2003).

proposing permanent approval of ROS as well as an extension of the ROS pilot.<sup>6</sup> CBOE proposes an extension of the ROS pilot so that the pilot may continue to operate while the Commission considers the Exchange's request for permanent approval.

###### 2. Statutory Basis

The CBOE believes that ROS has improved market efficiency for all market participants by successfully facilitating expedited openings of options classes on the Exchange during the pilot period. Therefore, CBOE believes that the proposed rule change is consistent with section 6(b) of the Act,<sup>7</sup> in general, and furthers the objectives of section 6(b)(5),<sup>8</sup> in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest.

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

CBOE does not believe that the proposed rule change will impose any burden on competition 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 neither solicited nor received written comments with respect to the proposed rule change.

#### 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) of the Act<sup>9</sup> and subparagraph (f)(6) of rule 19b-4<sup>10</sup> thereunder because the Exchange has designated the proposed rule change as one that does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate; and the Exchange has given the Commission written notice of its intention to file the proposed rule change at least five business days prior to filing, or such shorter time as designated by the Commission. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily

<sup>6</sup> See SR-CBOE-2002-55.

<sup>7</sup> 15 U.S.C. 78f(b).

<sup>8</sup> 15 U.S.C. 78f(b)(5).

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4(f)(6).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

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.

The Exchange has requested that the Commission waive the five-day pre-filing notice requirement and accelerate the operative date of the proposal to March 31, 2003 so that the ROS pilot program may continue without interruption after it would have otherwise expired on March 31, 2003. For this reason, the Commission, consistent with the protection of investors and the public interest, has determined to waive the five-day pre-filing notice requirement and accelerate the operative date of the proposal to March 31, 2003.<sup>11</sup>

#### 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. 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 Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-CBOE-2003-12 and should be submitted by April 22, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>12</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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<sup>11</sup> For purposes of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>12</sup> 17 CFR 200.30-3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47569; File No. SR-FICC-2002-13]

### Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to FICC's Schedule of Money Tolerances

March 26, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on December 20, 2002, 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 amends the schedule of money tolerances set forth in the rules of the Government Securities Division of FICC.

#### 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.<sup>2</sup>

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

The rules of the Government Securities Division of FICC contain a schedule of money tolerances ("Schedule") that permits FICC, among other things, to compare a buy-sell trade with a discrepancy in its settlement amount of \$1 per million in real time.<sup>3</sup>

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> The Commission has modified parts of these statements.

<sup>3</sup> Money tolerances are calculated based on the par amount of the securities. GSCC, FICC's predecessor, recently amended the real-time money tolerance applicable to the statement amount of

FICC is proposing to amend this tolerance to \$2 per million in order to increase the intraday comparison rate of valid trades.

FICC has found that the current \$1 tolerance on the settlement amount of buy-sell transactions results in increased risk. Specifically, FICC has found after conducting an analysis that many valid trades remain uncomparated during the day and thus do not receive the benefit of FICC's guaranty. These trades eventually compare at end of day, when the applicable tolerance is higher, but they are left without the FICC guaranty during the day. FICC's analysis has shown that increasing the real-time money tolerance to \$2 per million would cause more than 1,000 additional trades to compare earlier in the day. FICC is thus proposing to amend the Schedule to provide for a \$2 real-time tolerance per million for buy-sell transactions.

FICC believes the proposed rule change is consistent with the Act and the rules and regulations thereunder because it will permit valid trades to compare earlier in the day and thus will eliminate risk and will promote the prompt and accurate clearance and settlement of securities.

##### (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)(iii) of the Act<sup>4</sup> and Rule 19b-4(f)(4)<sup>5</sup> thereunder because it

repo transactions from \$1 to \$0.10. Securities Exchange act Release No. 46658 (October 11, 2002) 67 FR 64943 [SR-GSCC-2002-08]. In making that rule filing, GSCC inadvertently eliminated the text that was applicable to the real-time tolerance for the settlement money of buy-sell transactions, which is the subject of this present rule filing. This present rule filing therefore reinstates the necessary language to cover the real time tolerance applicable to buy-sell transactions and distinguishes it from the language applicable to repo transactions.

<sup>4</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>5</sup> 17 CFR 240.19b-4(f)(4).