

the sharing of information related to any financial instrument based, in whole or in part, upon an interest in or performance of gold.

#### 1. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act<sup>31</sup> in general and furthers the objectives of Section 6(b)(5)<sup>32</sup> in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition.

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

The Exchange did not receive any written comments on the 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, as amended, 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](mailto:rule-comments@sec.gov). Please include File Number SR-Amex-2004-38 on the subject line.

#### 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-2004-38. 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, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the 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-2004-38 and should be submitted on or before December 30, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>33</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

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### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-50791; File No. SR-CBOE-2003-18]

#### Self-Regulatory Organizations; Notice of Withdrawal of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated to Amend CBOE Rule 6.24 Relating to Systematizing Orders

December 3, 2004.

On May 5, 2003, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> to amend CBOE Rule 6.24 relating to the systematization of orders to comply with the requirement to implement a consolidated options audit trail system ("COATS"). On July 29, 2003, the Exchange submitted Amendment No. 1 to the proposed rule change. The proposed rule change, as amended, was published for comment in the **Federal Register** on August 7, 2003.<sup>3</sup> No comment letters were received. On November 24, 2004, the Exchange withdrew the proposed rule change.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>4</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

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### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-50790; File No. SR-FICC-2004-16]

#### Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Granting Approval of a Proposed Rule Change Relating to Establishment of a Cross-Margining Agreement With The Clearing Corporation

December 3, 2004.

#### I. Introduction

On August 12, 2004, the Fixed Income Clearing Corporation ("FICC") filed with the Securities and Exchange Commission ("Commission") proposed rule change File No. SR-FICC-2004-16

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

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

<sup>3</sup> See Securities Exchange Act Release No. 48267 (July 31, 2003), 68 FR 47116.

<sup>4</sup> 17 CFR 200.30-3(a)(12).

<sup>31</sup> 15 U.S.C. 78f(b).

<sup>32</sup> 15 U.S.C. 78f(b)(5).

<sup>33</sup> 17 CFR 200.30-3(a)(12).