

SBGS00569 Special Assistant to the Chief of Staff and Chief Operating Officer. Effective January 27, 2005.

SBGS00568 Speechwriter to the Associate Administrator for Communications and Public Liaison. Effective January 28, 2005.

*Section 213.3337 General Services Administration*

SGS60100 Deputy Associate Administrator for Congressional and Intergovernmental Affairs to the Associate Administrator for Congressional and Intergovernmental Affairs. Effective January 27, 2005.

SGS00063 Director of Marketing to the Deputy Associate Administrator for Communications. Effective January 28, 2005.

*Section 213.3351 Federal Mine Safety and Health Review Commission*

FRGS60017 Confidential Assistant to the Chairman. Effective January 19, 2005.

*Section 213.3356 Commission on Civil Rights*

CCGS60033 Special Assistant to a Commissioner. Effective January 26, 2005.

*Section 213.3360 Consumer Product Safety Commission*

PSGS60049 Special Assistant (Legal) to the Chairman. Effective January 21, 2005.

*Section 213.3379 Commodity Futures Trading Commission*

CTGS60003 Administrative Assistant to the Commissioner. Effective January 10, 2005.

*Section 213.3384 Department of Housing and Urban Development*

DUGS60546 Special Assistant to the Deputy Secretary. Effective January 18, 2005.

DUGS60078 Staff Assistant to the Assistant Secretary for Administration. Effective January 26, 2005.

DUGS60114 Staff Assistant to the Assistant Secretary for Administration. Effective January 26, 2005.

DUGS60179 Staff Assistant to the Director of Executive Scheduling. Effective January 26, 2005.

DUGS60211 Staff Assistant to the Director of Executive Scheduling. Effective January 26, 2005.

*Section 213.3391 Office of Personnel Management*

PMGS00049 Legislative Assistant to the Chief, Office of House Affairs. Effective January 10, 2005.

*Section 213.3394 Department of Transportation*

DTGS60054 Associate Director for Governmental Affairs to the Deputy Assistant Secretary for Governmental Affairs. Effective January 27, 2005.

DTGS60202 Special Assistant to the Administrator. Effective January 27, 2005.

DTGS60274 Special Assistant to the Assistant to the Secretary and Director of Public Affairs. Effective January 27, 2005.

DTGS60301 Associate Director for Governmental Affairs to the Deputy Assistant Secretary for Governmental Affairs. Effective January 27, 2005.

**Authority:** 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., P.218.

**Dan G. Blair,**

*Acting Director, Office of Personnel Management.*

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**SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34–51205; File No. SR–CBOE–2004–72]**

**Self-Regulatory Organizations; Order Approving Proposed Rule Change and Amendment No. 1 by the Chicago Board Options Exchange, Incorporated Relating to the SizeQuote Mechanism Pilot Program**

February 15, 2005.

On November 10, 2004, the Chicago Board Options Exchange, Incorporated (“CBOE” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), 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> a proposed rule change to amend CBOE Rule 6.74, “Crossing Orders,” to adopt, on a one-year pilot basis, a “SizeQuote Mechanism” for the execution of large-sized orders in open outcry. On December 22, 2004, the CBOE filed Amendment No. 1 to the proposal. The proposed rule change, as amended, was published for comment in the **Federal Register** on January 12, 2005.<sup>3</sup> The Commission received no comments regarding the proposal. This order approves the proposed rule change, as amended.

The proposed SizeQuote Mechanism is a procedure by which floor brokers may execute and facilitate large-sized

orders of at least 250 contracts in open outcry.<sup>4</sup> Under the proposed procedures, a floor broker must be willing to facilitate the entire size of the order for which he or she requests quotes through the SizeQuote Mechanism (the “SizeQuote Order”).<sup>5</sup>

As described more fully in the January Release,<sup>6</sup> a floor broker seeking to use the SizeQuote trading procedure must specifically request a “SizeQuote” from in-crowd market participants (“ICMPs”), who may respond with indications of the price and size at which they would be willing to trade with the SizeQuote Order.<sup>7</sup> ICMPs that provide SizeQuote responses at the highest bid or lowest offer (the “best price”) have priority to trade with the SizeQuote Order at that best price and at a price equal to one trading increment better than the best price (the “improved best price”).<sup>8</sup> Allocation of the SizeQuote Order among ICMPs will be pro rata, up to the size of each ICMP’s SizeQuote response. If the ICMPs providing the best price or the improved best price do not execute the entire SizeQuote Order, the floor broker representing the SizeQuote Order must trade the remaining contracts at the best price or the improved best price, as applicable. A floor broker may execute the entire SizeQuote Order at a price two trading increments better than the best price provided by the ICMPs in their responses to the SizeQuote request.

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 exchange, and, in particular, with the requirements of section 6(b)(5) of the Act,<sup>9</sup> which requires, among other

<sup>4</sup> The appropriate CBOE Market Performance Committee will determine the options classes in which SizeQuote operates and may vary the minimum size of the orders eligible for SizeQuote, provided, however, that the minimum qualifying order size may not be less than 250 contracts.

<sup>5</sup> A floor broker may not execute a SizeQuote Order at a price inferior to the national best bid or offer (“NBBO”). See proposed CBOE Rule 6.74(f)(i)(E).

<sup>6</sup> See note 4, *supra*.

<sup>7</sup> CBOE Rule 6.45A, “Priority and Allocation of Trades for CBOE Hybrid System,” defines an “in-crowd market participant” to include an in-crowd Market-Maker, an in-crowd DPM, or a floor broker representing orders in the trading crowd.

<sup>8</sup> However, a public customer order in the electronic book has priority to trade with a SizeQuote Order over any ICMP providing a SizeQuote response at the same price as the order in the electronic book. See proposed CBOE Rule 6.74(f)(i)(C).

<sup>9</sup> 15 U.S.C. 78f(b)(5). In approving this proposed rule change, the Commission has considered the proposed rule’s impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<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. 50967 (January 5, 2005), 70 FR 2197 (“January Release”).

things, that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The CBOE believes that the SizeQuote Mechanism will create enhanced incentives for ICMPs to quote competitively by giving ICMPs that respond to a SizeQuote request at the best price priority to trade with the SizeQuote Order at that best price and at the improved best price (*i.e.*, one trading increment better), as described above.<sup>10</sup> Moreover, ICMPs will have only one opportunity to respond to a SizeQuote request, and ICMPs that do not respond at the best price will lose the opportunity to trade with the SizeQuote Order. The Commission believes that these procedures may encourage ICMPs to quote more competitively. The Commission notes, in addition, that if ICMPs providing SizeQuote responses do not execute the entire SizeQuote Order, the floor broker representing the SizeQuote Order must trade any remaining contracts at the best price, or at the improved best price, as applicable. At the same time, because the floor broker would be permitted to execute the entire SizeQuote Order at two increments better than the ICMPs' best price, the Commission believes it is essential for the Exchange to monitor the impact of the proposed rule change on the competitive process. Thus, the Commission is approving the proposed rule change on a one-year pilot basis. The CBOE has represented that it will provide the Commission, at the end of the pilot period, a report summarizing the effectiveness of the SizeQuote Mechanism. The Commission intends to carefully review this report before approving any extension of the program.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,<sup>11</sup> that the proposed rule change (SR-CBOE-2004-72), as amended, is approved on a pilot basis until February 15, 2006.

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>10</sup> A public customer order in the electronic book has priority to trade with a SizeQuote Order over any ICMP providing a SizeQuote response at the same price as the order in the electronic book. See CBOE Rule 6.74(f)(i)(C).

<sup>11</sup> 15 U.S.C. 78s(b)(2).

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

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51206; File No. SR-FICC-2004-23]

### Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing of Proposed Rule Change to Change the Notice Period Required for the Closing of Participant Accounts or Withdrawing From Membership in Its Mortgage-Backed Securities Division

February 15, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on November 22, 2004, the Fixed Income Clearing Corporation ("FICC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change 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 parties.

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

The purpose of this proposed rule change is to amend the notice period required for the closing of participant accounts or withdrawing from membership in the Mortgage-Backed Securities Division ("MBSD") 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 these statements.<sup>2</sup>

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

The purpose of the proposed rules changes is to amend the timeframe in which a participant, limited purpose participant, or EPN user can cease to maintain an account or can voluntarily withdraw as a participant from the

Mortgage-Backed Securities Division ("MBSD") of FICC.

Currently, the MBSD's Rules expressly state that in order to cease to maintain an account or to voluntarily withdraw as a participant, a participant must notify FICC of its intent to do so in writing, and thereafter FICC management and the participant must wait ten days for the cessation or withdrawal to become effective. Upon review, FICC has determined that imposing this mandatory time period is unnecessary. FICC believes it should have the flexibility, and thereby provide greater flexibility to participants, to close an account or permit withdrawal within a shorter period. The proposed changes would provide this flexibility by providing that (1) a participant must provide ten days' written notice of account cessation or withdrawal from membership but the MBSD can accept termination within a shorter period; (2) the requested account cessation or withdrawal would not be effective until accepted by the MBSD, and (3) the MBSD's acceptance will be evidenced by a notice to all members announcing the account cessation or withdrawal effective date.

FICC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act<sup>3</sup> and the rules and regulations thereunder applicable to FICC because the proposed rule change will provide the FICC with greater flexibility with respect to closing accounts of participants and to permitting the voluntary withdrawal of participants thereby better enabling it to safeguard the securities and funds in its custody and control.

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

FICC does not believe that the proposed rule change will have any impact or impose any 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 or 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

Within thirty-five days of the date of publication of this notice in the **Federal**

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

<sup>2</sup> The Commission has modified the text of the summaries prepared by FICC.

<sup>3</sup> 15 U.S.C. 78q-1.