

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

The proposed rule change is anticipated to enhance the ability of market-makers to compete with the other exchanges for order flow.

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

No written comments were solicited or received with respect to 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 organizations 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 proposal 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. 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 will also be available for inspection and copying at the principal office of CBOE. All submissions should refer to File No. SR-CBOE-98-35 and should be submitted by October 7, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>5</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-40422; International Series Release No. 1156; File No. SR-EMCC-98-07]

### **Self-Regulatory Organizations; Emerging Markets Clearing Corporation; Order Granting Accelerated Approval of a Proposed Rule Change To Require Members To Maintain a Pre-Billing Deposit**

September 9, 1998.

On July 24, 1998, Emerging Markets Clearing Corporation ("EMCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR-EMCC-98-07) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").<sup>1</sup> Notice of the proposal was published in the **Federal Register** on August 14, 1998.<sup>2</sup> No comment letters were received. For the reasons discussed below, the Commission is granting accelerated approval of the proposed rule change.

#### **I. Description**

Under the rule change, EMCC will require each member to maintain on deposit with EMCC an amount equal to three times the member's average monthly EMCC bill ("pre-bill amount"). The purpose of the pre-bill amount is to provide EMCC with additional operating cash. The average monthly bill will be based on a member's three most recent monthly EMCC bills, excluding all pass-through charges. If a member does not have a three month billing history (e.g., a new member), EMCC will estimate the member's average monthly bill in calculating the pre-bill amount. Members will continue to be billed monthly based on their actual use of EMCC's services.

EMCC will recalculate the pre-bill amount quarterly. If a member's recalculated pre-bill amount is greater than its prior pre-bill amount, the

amount of such difference will appear on the member's next monthly bill as an additional charge. Conversely, if a member's recalculated pre-bill amount is less than its prior pre-bill amount, the amount of such difference will appear on the member's next monthly bill as a credit.

#### **II. Discussion**

Section 17A(b)(3)(D) of the Act<sup>3</sup> requires that the rules of a clearing agency provide for the equitable allocation of reasonable dues, fees, and other charges among its participants. The Commission believes that the proposed rule change is consistent with EMCC's obligations under Section 17A(b)(3)(D) because the pre-bill amount will be calculated based on each member's use of EMCC's services. In addition, the rule change provides for quarterly recalculation of the pre-bill amount, which should help ensure that each member's pre-bill amount accurately reflects the current level of its use of EMCC's services.

EMCC has requested that the Commission approve the proposed rule change prior to the thirtieth day after publication of the notice of the filing. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the publication of notice because such approval will allow EMCC to collect the pre-bill amounts promptly which should increase its liquidity resources.

#### **III. Conclusion**

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act<sup>4</sup> and the rules and regulations thereunder.

*It is therefore ordered,* pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-EMCC-98-07) be and hereby is approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>5</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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<sup>5</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> Securities Exchange Act Release No. 40311 (August 7, 1998), 63 FR 43737.

<sup>3</sup> 15 U.S.C. 78q-1(b)(3)(D).

<sup>4</sup> 15 U.S.C. 78q-1.

<sup>5</sup> 17 CFR 200.30-3(a)(12).