

or its clearing firm are based only on one side of the matched transaction. This one sided calculation may create a clearing fund obligation of a significant financial amount for the IDB or its clearing firm. EMCC believes it is appropriate, given the role of IDBs in providing liquidity to the market place, to establish a fixed clearing fund requirement for such firms or their clearing firms and to have the difference between the fixed amount and the calculated amount deposited by the other EMCC members. EMCC is concerned that if this requirement is not established IDBs will no longer submit their transactions to EMCC, and as a result, the dealer market will lose the benefits of the risk management process currently provided by EMCC.

While EMCC has determined that it is appropriate to set a fixed clearing fund amount for such members, it does not want this fixed amount to alter the status quo among members in the event that a pro-rata charge is imposed pursuant to Section 11(c) of Rule 4. Consequently, the proposed rule change would provide that the calculated amount and not the fixed amount would be used in determining the pro-rata liability of any affected members. Further, any amount that is required to be paid by other members because the calculated amount exceeds the fixed amount would similarly not be taken into account when determining pro-rata charges.

A second purpose of the proposed rule change is to modify the time at which EMCC novates transactions and to change the clearing fund formula to eliminate the "look back" feature. Currently, EMCC novates transactions at different times depending on whether the trade is received and compared on trade date or thereafter. Since under the current rules EMCC novates transactions received on trade date before EMCC has the opportunity to collect any additional required margin, the clearing fund required of members is the greater of the calculated requirement or the highest requirement over the previous two months. EMCC believed that by "looking back" it would have sufficient clearing fund deposits so long as a member's current trades were similar to the trading which occurred over the prior two months. While this methodology provides EMCC with adequate collateral in most cases, EMCC can never be certain it is always fully protected. To remedy this, EMCC has determined to require members to submit trades earlier on trade date, calculate margin based on these trades, and collect any additional required margin on trade date. EMCC's rules will

be changed to provide that novation of trades will not occur until after any margin requirements are received from both sides of the trade. This will apply to trades included in the afternoon calculation as well as trades covered by the morning calculation. As before, EMCC will do an afternoon and a morning clearing fund calculation, but now payments of required margin will be due after each calculation. Since EMCC will be collecting margin to cover its exposure on a timely basis, it will no longer need to collect the highest margin calculation over the prior two months. Therefore, the "look back" feature of its clearing fund calculation will be eliminated.

It is expected that by removing the "look back" feature, members' requirements will decrease. This decrease will help offset any additional requirement any member may be required to make under proposed Addendum I. Because EMCC will now be collecting fund deposits in the afternoon, there will no longer be an overnight exposure. Accordingly, all references to calculations based on the "overnight exposure cap" are also being deleted.

EMCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder because it will permit the equitable allocation of charges among participants.

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

EMCC 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 from EMCC members have not been solicited or received on the proposed rule change.

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 Register** or within such longer period (i) as the Commission may designate up to ninety 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 the 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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549-0609. Comments may also be submitted electronically at the following e-mail address: rule-comments@sec.gov. All comment letters should refer to File No. SR-EMCC-2003-02. This file number should be included on the subject line if e-mail is used. To help us process and review comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. 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 EMCC. All submissions should refer to the File No. SR-EMCC-2003-02 and should be submitted by July 21, 2003.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.³

Margaret H. McFarland,

Deputy Secretary.

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³ 17 CFR 200.30-3(a)(12).