

III. Discussion

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible.⁴ The proposed rule change will allocate EMCC's clearing fund requirement in a manner that more appropriately reflects the risks of its members' activities. The proposed rule change will also allow EMCC to use a more accurate calculation and more time to collect members' clearing fund requirements. Accordingly, the proposed rule change should help assure EMCC's ability to safeguard securities and funds.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular with the requirements of section 17A of the Act and the rules and regulations thereunder applicable.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR-EMCC-2003-02) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁵

J. Lynn Taylor,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48367; File No. SR-EMCC-2003-03]

Self-Regulatory Organizations; Emerging Markets Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Establishing a Temporary Rebate for IDB Members

August 19, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on June 6, 2003, Emerging Markets Clearing Corporation ("EMCC") filed with the Securities and Exchange Commission ("Commission") and on August 4, 2003, amended the proposed rule change as described in items I, II, and III below, which items have been prepared

primarily by EMCC. 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 establishes a temporary reimbursement for Inter-Dealer Broker ("IDB") members or members whose only use of EMCC is to clear for IDBs of the costs associated with their deposits in excess of \$50 million.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, EMCC 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. EMCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.²

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

The Commission recently approved a proposed rule change filed by EMCC to modify its clearing fund requirements for IDB members or members whose only use of EMCC is to clear for IDBs.³ That proposed rule change established a fixed amount of \$50 million to be deposited by members who are IDBs or whose only use of EMCC is to clear for IDBs. EMCC is concerned that if this modified requirement is not established, the IDBs will no longer submit their transactions to EMCC, and the dealer market will lose the benefits, such as the risk management and standardized, electronic processing, currently provided by EMCC. EMCC has decided to reimburse any such member the costs associated with its deposit requirements in excess of \$50 million. The rebate is retroactive to May 1, 2003, and will continue in effect until the modified clearing fund requirement for IDBs is effective.

EMCC believes that the proposed rule change is consistent with the requirements of section 17A of the Act and the rules and regulations thereunder applicable to EMCC 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 will have any 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

No written comments relating to the proposed rule change have been solicited or received. EMCC will notify the Commission of any written comments received by EMCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change establishes or changes fees to be imposed by EMCC, it has become effective pursuant to section 19(b)(3)(A)(ii) of the Act⁴ and rule 19b-4(f)(2).⁵ At any time within 60 days of the filing of the proposed rule change, the Commission may summarily 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.

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-2003-03. 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

⁴ 15 U.S.C. 78q-1(b)(3)(F).

⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² The Commission has modified parts of these statements.

³ Securities Exchange Act Release No. 48366 (August 19, 2003) (File No. SR-EMCC-2003-02).

⁴ 15 U.S.C. 78s(b)(3)(A)(ii).

⁵ 17 CFR 240.19b-4(f)(2).