

would make it a violation of a Participant's rules for a member to engage in a pattern or practice of trading through bids and offers in other linked markets,<sup>5</sup> unless one of the enumerated exceptions to the Linkage Plan's Trade-Through provisions applies and, in the case of a Block Trade, where the initiating member has satisfied aggrieved parties at the block price.

Lastly, the proposed amendment would add a provision to the Linkage Plan that states that a failure to lodge a Trade-Through complaint will not signify that a Trade-Through has not occurred, but instead, would affect only liability.

The Participants believe that, upon Commission approval of the amendment, coupled with the adoption and approval of the conforming rules by the Participants, the Linkage Plan would meet the requirements of the Trade-Through Disclosure Rule, and therefore, broker-dealers who effect transactions on one of the linked markets would be exempt from making the required disclosures under the Trade-Through Disclosure Rule.

## II. Implementation of the Plan Amendment

The Participants intend to make the proposed amendment to the Linkage Plan reflected in this filing effective when the Commission approves the amendment.

## III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed Linkage Plan amendment is consistent with the Act. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW.,

<sup>5</sup> In the Adopting Release, the Commission noted that in addition to the minimal provisions that must be included in an intermarket linkage plan to allow broker-dealers effecting transactions on exchanges participating in the plan to be excepted from the disclosure requirements of the Trade-Through Disclosure Rule, each exchange participating in a linkage plan would have to adopt certain rules. Specifically, the Commission stated that each exchange,

would have to adopt rules to allow the exchange to sanction specialists or market makers that trade through better prices of other exchanges, maintain policies and procedures that would limit the occurrence of intermarket trade-throughs, and maintain records that would identify intermarket trade-throughs and any review or remedial action taken by the exchange in response to such intermarket trade-throughs.

See Adopting Release, *supra* note 5 at n.62. Notwithstanding the more limited language in the proposed amendment to the Linkage Plan, each exchange's rules must address trade-throughs of better quotes displayed by both linked and unlinked markets.

Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed Linkage Plan amendment that are filed with the Commission, and all written communications relating to the proposed Linkage Plan amendment 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 at the Commission's Public Reference Room. Copies of such filings will also be available for inspection and copying at the principal offices of the Amex, CBOE, ISE, Phlx, and PCX. All submissions should refer to File No. 4-429 and should be submitted by April 25, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44125; File No. SR-EMCC-00-10]

### Self-Regulatory Organizations; The Emerging Markets Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Fee Schedules

**DATES:** March 28, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on December 8, 2000, the Emerging Markets Clearing Corporation ("EMCC") filed with the Securities and Exchange Commission ("Commission") 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 parties.

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

The proposed rule change will allow EMCC to modify its current fee schedule.

<sup>6</sup> 17 CFR 200.30-3(a)(29).

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

#### 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 these statements.<sup>2</sup>

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

EMCC, as part of its risk analysis, calculates a margin amount for each member.<sup>3</sup> Among the factors used in making these calculations are the liquidity ratings assigned to the securities through EMCC ("EMCC eligible instruments") and the volatility of those securities. Several members have recently requested on an ad hoc basis that EMCC prepare specialized reports showing either the liquidity ratings for all EMCC eligible instruments or the volatilities applicable at a given time for all those instruments. These reports may assist the requesting member in monitoring their trading positions and avoiding any overnight exposure cap violation resulting from their positions.

While EMCC has the right to charge the requesting member for the cost of preparing any specialized reports,<sup>4</sup> it has determined to establish a fixed fee for the preparation of these specialized risk reports and set the fee in the fee schedule. The fee for preparation of a report showing one standard deviation of volatility, as defined and calculated in accordance with EMCC Rule 4, section 5.II of all EMCC eligible instruments ("Volatility Report") will be \$500. The fee for preparation of a report showing the liquidity rating of all such

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

<sup>3</sup> EMCC calculates each member's margin amount pursuant to the formula set forth in EMCC Rule 4, section 5.

<sup>4</sup> EMCC Rule 20, section 2, states, "A Member may be charged for any unusual expense caused directly or indirectly by such Member including but without limitation, the cost of producing records pursuant to a court order or other legal process in any litigation or other legal proceeding to which such Member is a party or in which such records relating to such Member are so required to be produced, whether such production is required at the instance of such Member, or of any other party other than the Corporation."

instruments ("Liquidity Rating Report") will be \$500.

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 provides for the equitable allocation of dues, fees, and other charges among EMCC's participants.

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

EMCC does not believe that the proposed rule change will 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*

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**

The foregoing rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act and Rule 19b-4(f)(2) thereunder because the proposed rule change establishes a due, fee, or charge imposed by the self-regulatory organization. At any time within sixty days of the filing of such 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. 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 EMCC. All submissions should refer to File No. SR-EMCC-00-10 and should be submitted by April 25, 2001.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-44124; File No. SR-NSCC-00-14]

**Self-Regulatory Organizations: National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Implementation Date for an Enhancement to ACAT Service**

March 28, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on November 28, 2000, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by NSCC. 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 the rule filing is to make a technical correction to a previous filing regarding the implementation date to an enhancement of the Automated Customer Account ("ACAT") service.<sup>2</sup>

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

In its filing with the Commission, NSCC 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. NSCC has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of these statements.<sup>3</sup>

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

On November 20, 2000, the Commission approved a rule change implementing three enhancements to NSCC's ACAT Service.<sup>4</sup> One of the enhancements extended the timeframe in which a Receiving Member must reject a reclaim transfer. As stated in the order granting approval, NSCC proposed to implement this enhancement in January 2001. However, NSCC intended to implement this enhancement immediately.

NSCC believes that the proposed rule change is consistent with the requirements of Section 17A(b)(3)(F) of the Act<sup>5</sup> and the rules and regulations thereunder because it will facilitate the prompt and accurate clearance and settlement of securities transactions and, in general, protect investors and the public interest.

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

NSCC 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. NSCC will notify the Commission of any written comments received by NSCC.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii)<sup>6</sup> of the Act and Rule 19b-4(f)(5)<sup>7</sup> promulgated thereunder because the proposal effects a change in an existing service of a registered clearing agency that does not adversely affect the safeguarding of securities or

<sup>3</sup> The Commission has modified the text of the summaries prepared by NSCC.

<sup>4</sup> *Supra* note 2.

<sup>5</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>7</sup> 17 CFR 240.19b-f(5).

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

<sup>2</sup> Securities Exchange Act Release No. 43597 (November 20, 2000), 65 FR 70862 (November 28, 2000) [SR-NSCC-00-11].