

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 Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-CBOE-01-11 and should be submitted by May 1, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>16</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-44140; File No. SR-EMCC-00-08]

**Self-Regulatory Organizations; Emerging Markets Clearing Corporation; Order Approving a Proposed Rule Change To Permit Members To Satisfy Clearing Fund Obligations With Either Immediately Available Funds or Eligible Treasury Securities**

March 30, 2001.

On November 3, 2000, the Emerging Markets Clearing Corporation ("EMCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR-EMCC-00-08) 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 January 11, 2001.<sup>2</sup> No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

**I. Description**

Prior to this order, EMCC's Rule 4, section 5(B)(iii) required that members satisfy their obligation to make

additional required deposits ("margin") to the clearing fund in immediately available funds. EMCC Rule 4, section 8 permits the substitution of eligible collateral for clearing fund cash. Members may substitute on the same day a cash deposit is made eligible treasury securities<sup>3</sup> or an eligible letter of credit<sup>4</sup> for all or a portion of any such deposited cash provided the member maintains the requisite minimum ratios of cash to securities and/or letters of credit.<sup>5</sup>

To accommodate the member requests, EMCC proposed changing Rule 4, section 5(b)(iii) to allow members the option of meeting clearing fund margin calls with either cash or eligible treasury securities. The proposed rule change increases operating efficiencies by transforming what is currently a two-step process into a single step process. Eligible treasury securities so deposited will be valued at 95% of their current market value as provided in EMCC Rule 4, section 8. Notwithstanding the change, EMCC retains the discretionary right to require additional deposits to be made in cash.

**II. Discussion**

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.<sup>6</sup> The Commission believes that the approval of EMCC's rule change is consistent with this Section because

<sup>3</sup> As defined in EMCC Rule 1, the term "eligible treasury security" means an unmatured, marketable debt security in book-entry form that is a direct obligation of the United States Government.

<sup>4</sup> As defined in EMCC Rule 1, the term "eligible letter of credit" means a letter of credit that:

- (a) is issued by an approved letter of credit issuer;
- (b) contains the unqualified commitment of such issuer to pay a specified sum of money upon demand (properly drawn under the letter of credit) at any time prior to the expiration of the letter of credit;

- (c) is irrevocable and may be neither revoked nor amended to reduce its amount except upon the issuer's written notice to EMCC of its intent to revoke or amend, which must be given not less than five full business days prior to the date fixed for such revocation or amendment, and EMCC's consent to the revocation or amendment, which shall be given promptly upon EMCC's determination that the member either has substituted other collateral of at least equal value prior to such revocation or amendment or otherwise will have sufficient remaining value in its clearing fund deposit at the time of such revocation or amendment to satisfy its anticipated required fund deposit;
- (d) states that (1) it will be duly honored upon presentation of it to the issuing bank and (2) partial drawings are permitted; and
- (e) is in a form and contains such other terms and conditions as may be required by EMCC.

<sup>5</sup> EMCC Rule 4, sections 2 and 8(c).  
<sup>6</sup> 15 U.S.C. 78q-1(b)(3)(F) (1988).

this merely allows firms to meet a call for additional clearing fund collateral with a deposit of government securities valued at 95% of current market value instead of with a deposit of immediately available funds immediately followed by a substitution of government funds. The Commission also notes that EMCC has retained the right to require firms to meet calls for additional clearing fund in immediately available funds.

**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 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-00-08) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>7</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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**SMALL BUSINESS ADMINISTRATION**

[Declaration of Disaster #3330]

**Commonwealth of Massachusetts**

Middlesex County and the contiguous Counties of Essex, Norfolk, Suffolk and Worcester in Massachusetts; Hillsborough County in the State of New Hampshire constitute a disaster area as a result of damages caused by a fire that occurred on March 25, 2001.

Applications for loans for physical damage may be filed until the close of business on June 4, 2001 and for economic injury until the close of business on January 4, 2002 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Boulevard South, 3rd Floor, Niagara Falls, NY 14303.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere .....	6.625
Homeowners Without Credit Available Elsewhere .....	3.312
Businesses With Credit Available Elsewhere .....	8.000

<sup>7</sup> 17 CFR 200.30-3(9a)(12).

<sup>16</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. 43808 (January 4, 2001), 66 FR 2463.