

clearance and settlement of securities transactions.

### III. 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 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-DTC-2001-07) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

**Jonathan G. Katz,**  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44707; File No. 600-30]

### Self-Regulatory Organizations; Emerging Markets Clearing Corporation; Notice of Filing and Order Approving a Request for an Extension of Temporary Registration as a Clearing Agency

August 15, 2001.

Pursuant to section 19(a) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on July 27, 2001, the Emerging Markets Clearing Corporation ("EMCC") filed with the Securities and Exchange Commission ("Commission") an application requesting that the Commission extend EMCC's temporary registration as a clearing agency.<sup>2</sup> The Commission is publishing this notice and order to solicit comments from interested persons and to extend EMCC's temporary registration as a clearing agency through March 31, 2002.

EMCC was created to facilitate the clearance and settlement of transactions in U.S. dollar denominated Brady Bonds.<sup>3</sup> Since it began operations,

EMCC has added certain sovereign debt to the list of eligible securities that may be cleared and settled at EMCC.<sup>4</sup> EMCC began operating on April 6, 1998, with ten dealer members. As of December 31, 2000, EMCC has 21 members. Since EMCC's inception, it has maintained a comparison rate of over 89% on trade date, reaching 99% prior to settlement date.<sup>5</sup>

On February 13, 1998, pursuant to sections 17A(b) and 19(a)(1) of the Act<sup>6</sup> and Rule 17Ab2-1 promulgated thereunder,<sup>7</sup> the Commission granted EMCC's application for registration as a clearing agency on a temporary basis under August 20, 1999.<sup>8</sup> By subsequent orders dated August 12, 1999,<sup>9</sup> and August 18, 2000,<sup>10</sup> the Commission extended EMCC's registration as a clearing agency through August 20, 2000, and August 31, 2001, respectively.

As part of EMCC's initial temporary registration, the Commission granted EMCC temporary exemption from section 17A(b)(3)(B) of the Act because EMCC did not provide for the admission of some of the categories of members required by that section.<sup>11</sup> To date, EMCC's rules still only provide membership criteria for U.S. broker-dealers, United Kingdom broker-dealers, U.S. banks, and non-U.S. banks. As the Commission noted in the Registration Order, the Commission believes that it is appropriate for EMCC to limit the categories of members during its initial years of operations because no entity in a category not covered by EMCC's rules desires to be a member.<sup>12</sup> Accordingly, the Commission is extending EMCC's temporary exemption for section 17A(b)(3)(B).

The Commission also granted EMCC a temporary exemption from sections 17A(b)(3)(A) and 17A(b)(3)(F) of the Act to permit EMCC to use, subject to certain limitations, ten percent of its clearing fund to collateralize a line of a credit at Euroclear to finance on an intraday basis the receipt by EMCC of eligible instruments from one member that EMCC will redeliver to another

member.<sup>13</sup> The Registration Order limited EMCC's use of clearing fund deposits for this intraday financing to the earlier of one year after EMCC commenced operations or the date on which EMCC begins its netting service. On April 2, and May 17, 1999, the Commission approved rule changes that permitted EMCC to implement a netting service and that extended EMCC's ability to use clearing fund deposits for intraday financing at Euroclear until all EMCC members are netting members.<sup>14</sup> Because not all of EMCC's members have become netting members, the Commission is extending EMCC's temporary exemption from section 17A(b)(3)(A) and (F).

Finally, the Government Securities Clearing Corporation ("GSCC"), the Mortgage Backing Securities Clearing Corporation ("MBSCC"), and EMCC are currently taking steps toward integration of GSCC, MBSCC, and EMCC and the acquisition of these clearing agencies by The Depository Trust and Clearing Corporation. Because EMCC's governance and organizational structure will be affected by the acquisition and integration, the Commission is extending EMCC's registration as a clearing agency on a temporary basis through March 31, 2002.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing application. Such written data, views, and arguments will be considered by the Commission in granting registration or instituting proceedings to determine whether registration should be denied in accordance with section 19(a)(1) of the Act.<sup>15</sup> 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 amended application for registration and all written comments will be available for inspection at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. All submissions should refer to File No. 600-30 and should be submitted by September 11, 2001.

*It is therefore ordered*, pursuant to section 19(a) of the Act, that EMCC's registration as a clearing agency (File No. 600-30) be and hereby is temporarily approved through March 31, 2002.

<sup>13</sup> Registration Order at 8720.

<sup>14</sup> Securities Exchange Act Release Nos. 41247 (Apr. 2, 1999), 64 FR 17705 (Apr. 12, 1999) and 41415 (May 17, 1999), 64 FR 27841 (May 21, 1999).

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

<sup>13</sup> 17 CFR 200.30-3(a)(12).

<sup>14</sup> 15 U.S.C. 78s(a).

<sup>2</sup> Letter from Merrie Faye Witkin, Assistant Secretary, EMCC (July 26, 2001).

<sup>3</sup> Brady bonds are restructured bank loans that were first issued pursuant to a plan developed by then U.S. Treasury Secretary Nicholas Brady to assist debt-ridden countries restructure their sovereign debt into commercially marketable securities. The plan provided for the exchange of bank loans for collateralized debt securities as part of an internationally supported sovereign debt restructuring. Typically, the principal and certain interest of these bonds is collateralized by U.S. Treasury zero coupon bonds and other high grade instruments.

<sup>4</sup> Securities Exchange Act Release Nos. 40363 (Aug. 25, 1998), 63 FR 46263 (Aug. 31, 1998) and 41618 (July 14, 1999), 64 FR 39181 (July 21, 1999).

<sup>5</sup> EMCC 2000 Annual Report.

<sup>6</sup> 15 U.S.C. 78q-1(b) and 78s(a)(1).

<sup>7</sup> 17 CFR 240.17Ab2-1.

<sup>8</sup> Securities Exchange Act Release No. 39661 (Feb. 13, 1998), 63 FR 8711 (Feb. 20, 1998) ("Registration Order").

<sup>9</sup> Securities Exchange Act Release No. 41733 (Aug. 12, 1999), 64 FR 44982 (Aug. 18, 1999).

<sup>10</sup> Securities Exchange Act Release No. 43182 (Aug. 18, 2000), 65 FR 51880 (Aug. 25, 2000).

<sup>11</sup> Registration Order at 8716.

<sup>12</sup> EMCC has represented to the staff that it will modify its rules to provide admission criteria for other entities that wish to become EMCC members.

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

Jonathan G. Katz,  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44704; File No. SR-NASD-2001-51]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc., Relating to the Opening of Nasdaq's SelectNet Service at 8:00 a.m. Eastern Time

August 15, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on August 14, 2001, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its subsidiary The Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. Nasdaq filed the proposal pursuant to section 19(b)(3)(A) of the Act,<sup>3</sup> and Rule 19b-4(f)(5) thereunder,<sup>4</sup> as one effecting a change in an existing order-entry or trading system of a self-regulatory organization, which renders the proposal effective upon filing with the Commission. 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

Nasdaq proposes to open its SelectNet service ("SelectNet") at 8:00 a.m. Eastern Time ("ET"). Nasdaq will implement this rule change on September 4, 2001. The text of the proposed rule change is below. Proposed new language is in italics.

#### 4720. SelectNet Service

- (a)-(c) No Change.
- (d) *Hours of Operation*

*The SelectNet Service shall operate from 8:00 a.m. ET to 6:30 p.m. ET.*

\* \* \* \* \*

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

In its filing with the Commission, Nasdaq 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. Nasdaq has prepared summaries, set forth in Section A, B, and C below, of the most significant aspects of such statements.

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

###### I. Purpose

Nasdaq's SelectNet Service is an order negotiation and delivery service that allows market participants to direct or broadcast orders to buy or sell Nasdaq securities to market makers or Electronic Communication Networks ("ECNs"). Trades executed through SelectNet are confirmed to the parties and the trade is automatically sent to Nasdaq's Automated Confirmation Transaction Service ("ACT") and sent to clearing as "locked-in" transactions. Currently, Nasdaq operates SelectNet from 9 a.m. to 6:30 p.m. ET. In response to requests from market participants seeking to expand their usage of SelectNet's communication and execution capabilities prior to normal market hours, Nasdaq has determined to open SelectNet one hour earlier, starting at 8 a.m. ET. Nasdaq will commence operating SelectNet at 8 a.m. starting September 4, 2001. Opening SelectNet earlier should further assist market participants in accessing trading partners prior to the Nasdaq market open. In turn, this enhanced access will provide more opportunities for Nasdaq market participants to manage pre-open order flows and engage in robust price discovery.

###### 2. Statutory Basis

Nasdaq believes the proposed rule change is consistent with section 15A(b)(6) of the Act,<sup>5</sup> in that the proposal is designed to promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in processing information with respect to and

facilitating transactions in securities, as well as removing impediments to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest.

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

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

Written comments were neither solicited nor received.

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

The foregoing proposal has become effective pursuant to section 19(b)(3)(A) of the Act,<sup>6</sup> and Rule 19b-4(f)(5)<sup>7</sup> thereunder, in that it effects a change in an existing order-entry or trading system of a self-regulatory organization that does not: (1) Significantly affect the protection of investors or the public interest, (2) impose any significant burden on competition, or (3) have the effect of limiting the access to or availability of the system.

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 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 20549-0609. 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 provision

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

<sup>7</sup> 17 CFR 240.19b-4(f)(5).

<sup>16</sup> 17 CFR 200.30-3(a)(16).

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

<sup>2</sup> 17 CFR 240.19b-4.

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

<sup>4</sup> 17 CFR 240.19b-4(f)(5).

<sup>5</sup> 15 U.S.C. 78o-3(b)(6).