

Rather, the Commission finds that the proposed interpretation of Article Fifth(b) is consistent with the Exchange Act, including section 6(b)(5).

The Petitioner's legal memorandum states that the proposal is not consistent with section 6(c)(3)(A) of the Exchange Act "because the proposed rule does not address the qualifications of CBOT members to become CBOE members in accordance with the voting rights and procedures established by Article Fifth(b)." ⁶² Section 6(c)(3)(A) of the Exchange Act provides that an exchange "may deny membership to, or condition the membership of, a registered broker-dealer" if, among other things, such broker-dealer does not meet financial responsibility or operational capability standards set forth in the exchange's rules. ⁶³ This provision is further qualified by section 6(c)(4) of the Exchange Act, which permits an exchange to limit the number of members of the exchange, provided that the exchange does not decrease the number of memberships below such number in effect on May 1, 1975. ⁶⁴ Article Fifth(b) states that a member of the CBOT is entitled to be a member of the CBOE, notwithstanding any limitation on the number of CBOE members, if such CBOT member applies for membership and otherwise qualifies for membership. The CBOE is proposing to interpret the meaning of the term "member of the [CBOT]" as used in Article Fifth(b). This interpretation does not implicate Section 6(c)(3)(A) and is consistent with Section 6(c)(4) because the CBOE is not proposing to reduce the number of members of the exchange.

VI. Conclusion

It is therefore ordered, that the earlier action taken by delegated authority ⁶⁵ is set aside and the proposed rule change (SR-CBOE-2004-16), as amended, is approved pursuant to section 19(b)(2) of the Exchange Act. ⁶⁶

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5-833 Filed 3-2-05; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51255; File No. SR-EMCC-2004-01]

Self-Regulatory Organizations; Emerging Markets Clearing Corporation; Notice of Withdrawal of a Proposed Rule Change To Amend Its Rules With Regard to the Imposition of Fines Upon Its Members

February 25, 2005.

On January 12, 2005, the Emerging Markets Clearing Corporation ("EMCC") submitted to the Securities and Exchange Commission ("Commission") a withdrawal of a proposed rule change which was filed with the Commission pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"). ¹ The purpose of the proposed rule change was to expand EMCC's rules with regard to the imposition of fines upon its members and to more specifically identify the actions or inactions of members that will result in the imposition of fines. Notice of the proposal was published in the **Federal Register** on May 3, 2004. ²

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5-842 Filed 3-2-05; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51256; File No. SR-ISE-2005-10]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change and Amendment No. 1 Thereto by the International Securities Exchange, Inc., Relating to Listing Standards for Options on Narrow-Based Securities Indexes

February 25, 2005.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), ¹ and Rule 19b-4 thereunder, ² notice is hereby given that on February 14, 2005, the International Securities Exchange, Inc. ("ISE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the

¹ 15 U.S.C. 78s(b)(1).

² Securities Exchange Act Release No. 49623 (April 27, 2004), 69 FR 24208.

³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

proposed rule change as described in items I, II, and III below, which items have been prepared by the ISE. On February 23, 2005, the Exchange amended its proposal. ³ The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons, and is approving the proposal on an accelerated basis.

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

The ISE is proposing to amend its rules relating to listing standards for options on narrow-based security indexes. The text of the proposed rule change is as follows (*italics* indicate additions; [brackets] indicate deletions):

* * * * *

Rule 2002. Designation of an Index

(a) No Change.

(b) The Exchange may trade options on a narrow-based index pursuant to Rule 19b-4(e) of the Securities Exchange Act of 1934, if each of the following conditions is satisfied:

(1) No Change.

(2) The index is capitalization-weighted, price-weighted, [or] equal dollar-weighted, *or modified capitalization-weighted*, and consists of 10 or more component securities;

(3)-(4) No Change.

(5) In a capitalization-weighted index *or a modified capitalization-weighted index*, the lesser of the five highest weighted component securities in the index or the highest weighted component securities in the index that in the aggregate represent at least 30 percent of the total number of component securities in the index each have had an average monthly trading volume of at least 2,000,000 shares over the past six months;

(6)-(12) No Change.

(c) The following maintenance listing standards shall apply to each class of index options originally listed pursuant to paragraph (b) above:

(1)-(3) No Change.

(4) In a capitalization-weighted index *or a modified capitalization-weighted index*, the lesser of the five highest weighted component securities in the index or the highest weighted component securities in the index that in the aggregate represent at least 30 percent of the total number of stocks in the index each have had an average

³ See Amendment No. 1, dated February 23, 2005 ("Amendment No. 1"). In Amendment No. 1, the Exchange supplemented its description of the modified market capitalization methodology. Amendment No. 1 replaced the ISE's original filing in its entirety.

⁶² Legal Memorandum, *Supra* note 24, at 7-8.

⁶³ 15 U.S.C. 78f(c)(3)(A).

⁶⁴ 15 U.S.C. 78f(c)(4).

⁶⁵ July 15th Order, *Supra* note 8.

⁶⁶ 15 U.S.C. 78s(b)(2).