

not primarily listed on the Nasdaq/NMS (*i.e.*, those Index components having the Exchange or the New York Stock Exchange as their primary market), the Index's settlement value will continue to reflect the regular way opening sale prices reported on the primary market on the last trading day prior to expiration.

The settlement value calculation methodology currently used for Nasdaq/NMS components ("Old Methodology") will continue to be used for the settlement of any option series still outstanding when Index option contracts based on the proposed settlement value calculation methodology ("New Methodology") are introduced. Thereafter, any newly introduced Index option series will settle based on the New Methodology. Index option contracts based on the Old Methodology will be aggregated with those based on the New Methodology for purposes of determining compliance with position and exercise limits.⁷ LEAPS® (Long Term Equity Anticipation Securities) still outstanding when the New Methodology is implemented will continue to settle based on the Old Methodology. Thereafter, any newly introduced LEAPS® will settle based on the New Methodology.

The Exchange believes that the use of the volume weighted average price to calculate the Index's settlement value is appropriate and should result in a settlement value that better reflects the markets in Nasdaq/NMS securities. The Exchange proposes no other changes to the Index, and will continue to maintain the Index in accordance with the applicable criteria set forth in the original order approving the Index for options trading.⁸ The Exchange will disseminate an information circular to its members to inform them of the change to the Index's settlement value calculation methodology. The circular will detail the method by which contracts settling under the Old Methodology will be phased out and those settling based on the New Methodology will be introduced.

electronically to Amex's "Index Calculation Group."

⁷ As set forth in Exchange Rules 904C and 905C, the current position and exercise limits for options on the Index are 15,000 contracts on the same side of the market. The Exchange notes, however, that these position and exercise limits may be revised upwards in connection with an Exchange proposal to increase the position and exercise limits for narrow-based index options. See Securities Exchange Act Release No. 40756 (Dec. 7, 1998), 63 FR 68809 (Dec. 14, 1998).

⁸ See Note 3 *supra*.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,⁹ in general, and furthers the objectives of Section 6(b)(5),¹⁰ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices; promote just and equitable principles of trade; foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities; and remove impediments to and perfect the mechanism of a free and open market and a national market system.

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

The Exchange believes that the proposed rule change will not impose any burden on competition.

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

The Exchange has neither solicited nor received comments with respect to the proposed rule change.

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

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; (3) by its terms, does not become operative for 30 days after July 29, 1999, the date of filing;¹¹ and the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with the text of the proposal, at least five business days prior to the filing date; the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹² and Rule 19b-4(f)(6)¹³ thereunder.

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.

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(5).

¹¹ Although the proposed rule change is considered effective upon filing, it may not become operative until at least August 28, 1999, which is 30 days after the date of filing (July 29, 1999).

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 17 CFR 240.19b-4(f)(6).

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, N.W., Washington, D.C. 20549-0609. Copies of the submissions, 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 persons, 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, N.W., Washington, D.C. 20549. 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-Amex-99-28 and should be submitted by September 20, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁴

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41770; File No. SR-EMCC-99-09]

Self-Regulatory Organizations; Emerging Markets Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Regarding Year 2000 Policies

August 20, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on August 19, 1999, the Emerging Markets Clearing Corporation ("EMCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items II and II below, which items have been prepared primarily by EMCC. The Commission is publishing this notice

¹⁴ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

and order to solicit comments from interested persons and to grant accelerated approval of the proposal.

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

Under the proposed rule change, EMCC will not activate any new or additional participant accounts or provide new services to participants after November 1, 1999, and until reasonably practicable in January 2000.

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 proposed rule change provides that, EMCC will not activate any new or additional participants accounts or provide new services to participants after November 1, 1999, and until reasonably practicable in January, 2000. Among other things, EMCC announced in its August 6, 1999, Important Notice that after November 1, 1999, and for the remainder of the calendar year, EMCC will not: (1) permit new participants to utilize EMCC's services; (2) allow current participants to utilize new EMCC services; and (3) assign additional participant numbers to current participants.

EMCC's Rule 2 provides in part that:

the Corporation may deny an application to become a Member or to use one or more additional services of the Corporation upon a determination by the Corporation that the Corporation does not have adequate personnel, space, data processing capacity or other operational capability at such time to perform its services for the applicant or Member without impairing the ability of the Corporation to provide services for its existing Settling Members, to assure the prompt, accurate and orderly processing and settlement of securities transactions or to otherwise carry out its functions; provided, however, that any such applications which are denied pursuant to this paragraph shall

be approved as promptly as the capabilities of the Corporation permit.

EMCC believes that continuing to activate numerous new or additional participant accounts or to provide new services to participants after November 1st could potentially be disruptive to the rest of its Year 2000 efforts. Specifically, EMCC will be devoting a great deal of resources to confirming the Year 2000 readiness of its systems and applications in November of 1999. Additionally, EMCC would like to ensure that it has enough time to deal with any unanticipated issues that arise before the end of the calendar year.

EMCC believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder. In particular, the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act³ which requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, in general, to protect investors and the public interest.

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

EMCC does not believe that the proposed rule change will impact 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

EMCC advised members of the Year 2000 policy modifications in an Important Notice, dated August 6, 1999. No written comments relating to the Important Notice or 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

Section 17A(b)(3)(F) of the Act⁴ requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions. The Commission finds that the proposed rule change is consistent with this obligation because the proposed modifications to EMCC's Year 2000 policies will permit EMCC sufficient time before year end to complete its Year 2000 preparations. As a result, EMCC should be able to continue to provide prompt and accurate clearance

and settlement of securities transactions before, on, and after Year 2000 without interruption.

EMCC requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the publication of notice of the filing. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the publication of notice of the filing because such approval will allow EMCC to better prepare for a smooth Year 2000 transition.

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 Room, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of EMCC. All submissions should refer to the File No. SR-EMCC-99-09 and should be submitted by September 20, 1999.

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,⁵ that the proposed rule change (File No. SR-EMCC-99-09) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁶

Margaret H. McFarland,

Deputy Secretary.

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² The Commission has modified the text of the summaries prepared by EMCC.

³ 15 U.S.C. 78q-1(b)(3)(F).

⁴ 15 U.S.C. 78q-1(b)(3)(F).

⁵ 15 U.S.C. 78s(b)(2).

⁶ 17 CFR 200.30-3(a)(12).