

**Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. by order approve such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

The Amex has requested accelerated approval of the proposed rule change. While the Commission will not grant accelerated approval at this time, the Commission will consider granting accelerated approval of the proposal at the close of an abbreviated comment period of 15 days from the date of publication of the proposal in the **Federal Register**.

#### 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. 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 number SR-Amex-01-01 and should be submitted by March 8, 2001.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

**Margaret H. McFarland,**  
*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43950; File No. SR-Amex-01-02]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange LLC to Amend Amex Rule 126(g), Commentary .02 Regarding Agency Cross Transactions

February 12, 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 February 5, 2001, the American Stock Exchange LLC ("Amex" or "Exchange") 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 by the Exchange. 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

The Exchange proposes to amend Amex Rule 126(g), Commentary .02, to reduce the number of shares that may be crossed on an agency basis under the rule from 25,000 shares to 5,000 shares. The text of the proposed rule change is in *italics*. Proposed deletions are in brackets.

#### Rule 126 Precedence of Bids and Offers

Commentary .02

When a member has an order to buy and an order to sell an equivalent amount of the same security, and both orders are of *5,000* [25,000] shares or more and are for the accounts of persons who are not members or member organizations, the member may "cross" those orders at a price at or within the prevailing quotation. The member's bid or offer shall be entitled to priority at such cross price, irrespective of pre-existing bids or offers at that price. The member shall follow the crossing procedures of Rule 151, and another member may trade with either the bid or offer side of the cross transaction only to provide a price which is better than the cross price as to all or part of such bid or offer. A member who is providing a better price to one side of

the cross transaction must trade with all other market interest having priority at that price before trading with any part of the cross transaction. No member may break up the proposed cross transaction, in whole or in part, at the cross price. A transaction effected at the cross price in reliance on this Commentary .02 shall be printed as "stopped stock".

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

In its filing with the Commission, the Exchange 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. The Exchange 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

##### 1. Purpose

Amex Rule 126, "Precedence of Bids and Offers," sets out rules governing priority and precedence of bids and offers on the Exchange Floor, and generally provides that bids and offers are entitled to precedence based on time, with members bidding at the highest price (offering at the lowest price) entitled to be on parity and divide executions at their price after a previous sale removes all bids and offers from the Floor. Commentary .02 to Amex Rule 126(g)<sup>3</sup> applies only to agency crosses (referred to herein as "clean crosses") to buy and sell orders of 25,000 shares or more (that is, both orders for accounts of non-members). This commentary provides that a member may cross those orders at a price at or within the prevailing quotation, with such orders entitled to priority at the cross price over previously entered bids and offers. When crossing these orders, the member must follow the crossing procedures of Amex Rule 151 and another member may trade with either the bid or offer side of the cross to provide improvement to all or part of the bid or offer. In addition, the member must trade with all other market interest having time priority at that price before

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

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

<sup>3</sup> See Securities Exchange Act Release No. 34089 (May 19, 1994), 59 FR 27301 (May 26, 1994) (SR-Amex-92-41) (approval order).

<sup>8</sup> 17 CFR 200.30-3(a)(12).

trading with any part of the cross transaction.

The Exchange implemented Commentary .02 to facilitate execution of block size crosses on the Amex. In implementing this exception to the Exchange's rules of precedence, the Exchange was responding competitively to regional exchanges that were attracting Amex orders because orders to cross are not readily broken up by other trading interest in those markets which may lack a trading crowd or limit orders on specialists' books.

The Exchange expects that decimal pricing in minimum increments of \$.01 will result in increased numbers of cross transactions being broken up because it will be less expensive to provide price improvement than under previous increments. The Exchange believes this will place the Exchange at an increased competitive disadvantage to other markets where crosses can be effected with little or no risk of interference, will deprive customer block size orders of the benefits of primary market pricing, and will detract from primary market liquidity. The Exchange, therefore, believes it is appropriate to reduce the size of agency orders that can be crossed under Rule 126(g), Commentary .02, to 5,000 shares.

Amex clean cross procedures will continue to preserve auction market principles by providing the possibility of price improvement (because members must follow Amex Rule 151 crossing procedures), and by requiring that members trade with other market interest having time priority at that price before trading with any part of the cross transaction. In addition, the Exchange believes the proposal will enhance competition among markets in the execution of agency crosses, and will increase the possibility that pricing of agency crosses will be executed more efficiently and at better prices.

## 2. Statutory Basis

The Amex believes that the proposed rule change is consistent with section 6(b) of the Act<sup>4</sup> in general and further the objectives of section 6(b)(5)<sup>5</sup> in particular in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

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

The Exchange believes that the proposed rule change will impose no 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 were solicited or received with respect to the proposed rule change.

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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

## **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. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to file number SR-Amex-01-02 and should be submitted by March 14, 2001.

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

**Margaret H. McFarland,**  
*Deputy Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-43956; File No. SR-EMCC-00-9]

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

February 13, 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 29, 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.

### **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>

<sup>6</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>4</sup> 15 U.S.C. 78f(b).

<sup>5</sup> 15 U.S.C. 78f(b)(5).