

SR-CHX-2002-09 and should be submitted by January 27, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹²

Jill M. Peterson,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-49011; File No. SR-EMCC-2003-07]

Self-Regulatory Organizations; Emerging Markets Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval on a Temporary Basis of a Proposed Rule Change Relating to Buy-In and Sell-Out Procedures

December 30, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on December 22, 2003, the Emerging Markets Clearing Corporation ("EMCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared primarily by EMCC. The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated approval temporarily through June 30, 2004, to the proposed rule change.

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

The proposed rule change would (a) revise EMCC Rule 7, Sections 18 (Buy-Ins) and 19 (Sell-Outs) to shorten the time period when a buy-in and sell-out may be initiated and when it may be executed and (b) make conforming, technical changes to EMCC Rule 1 (Definitions and Descriptions) and Rule 7.

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

When EMCC was formed, it was recognized that its buy-in and sell-out procedures should be similar to those of the International Securities Market Association ("ISMA") because of EMCC's understanding that ISMA's procedures are generally followed by emerging market trading parties for transactions settled outside EMCC. The reason for this was to preclude EMCC members from being subject to a buy-in or sell-out by a non-EMCC member and not be able to retransmit the buy-in or sell-out to an EMCC member in the same time frame. Accordingly, EMCC's buy-in and sell-out rules followed the time periods that would be used by non-EMCC members for these processes.

EMCC recently learned that the ISMA buy-in and sell-out time frames will be changed effective January 1, 2004. If EMCC does not make corresponding changes to its rules by that date, it is possible that to avoid potential buy-in and sell-out exposure EMCC members will no longer submit transactions to EMCC. If EMCC members were to submit such transactions, they could be adversely affected due to the differences in buy-in time frames for ex-clearing trades. Accordingly, in order not to jeopardize the use of EMCC for trade processing and to not expose its members to risk, EMCC seeks to change its rules to conform to the industry change that is expected to become effective January 1, 2004. Basically, the change will shorten the time period when a buy-in and sell-out may be initiated and when it may be executed.³ EMCC understands that the emerging markets securities industry is favorably disposed to EMCC's proposed rule change.

In addition to the above proposed changes, EMCC also seeks to make technical corrections to its Rule 1 (Definitions and Descriptions) and Rule 7 with regard to several rule and section references regarding buy-in and sell-out provisions. Rules 7 and 8 were revised in 1999,⁴ but some references to those

rules and to specific sections therein were not amended to reflect those changes. This filing will correct that oversight.

EMCC believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder because it will promote the prompt and accurate clearance and settlement of securities transactions.

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

EMCC does not believe that the proposed rule change will have an impact on 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

No written comments relating to the proposed rule change have been solicited or received.

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

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder and particularly with the requirements of section 17A(b)(3)(F)⁵ of the Act, which requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions. Because this proposed rule change aligns EMCC's buy-in and sell-out procedures with those of ISMA, EMCC should avoid any abrupt stoppage of the use of its services thereby enabling EMCC to continue to provide for the prompt and accurate clearance and settlement of transactions in emerging markets securities.

EMCC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing because by so approving EMCC will be able to conform its buy-in and sell-out procedures to the new industry guidelines generally used in transactions cleared outside EMCC when those industry guidelines become effective January 1, 2004. This will help to avoid confusion and other adverse

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

³ A copy of the proposed rule language which sets out the timing for buy-ins and sell-outs is attached as an exhibit to EMCC's filing.

⁴ Securities Exchange Act Release No. 41415 (May 17, 1999), 64 FR 27841 (May 21, 1999) [File No. SR-EMCC-98-10].

⁵ 15 U.S.C. 78q-1(b)(3)(F).

¹² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

consequences among EMCC's participants.

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 5th Street NW, Washington, DC 20549-0069. Comments may also be submitted electronically at the following e-mail address: rule-comments@sec.gov. All comment letters should refer to File No. SR-EMCC-2003-07. This file number should be included on the subject line if e-mail is used. To help the Commission process and review comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. Copies of the submission, all subsequent amendments, all written statements with respect to the rule filing that are filed with the Commission, and all written communications relating to the rule filing between the Commission and any person, other than those that may be withheld from the public in accordance with provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room in Washington, DC. Copies of such filing will also be available for inspection and copying at EMCC's principal office and on EMCC's Web site at <http://www.e-m-c-c.com/legal/index.html>. All submissions should refer to File No. SR-EMCC-2003-07 and should be submitted January 27, 2004.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR-EMCC-2003-07) be, and hereby is, approved on an accelerated basis through June 30, 2004.

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

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 04-219 Filed 1-5-04; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-49003; File No. SR-FICC-2003-10]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Approving Proposed Rule Change To Amend the Fixed Income Clearing Corporation's Cross-Margining Agreements With the Chicago Mercantile Exchange, BrokerTec Clearing Company, and the Board of Trade Clearing Corporation and To Eliminate the Cross-Margining Agreement with the New York Clearing Corporation

December 29, 2003.

I. Introduction

On October 6, 2003, the Fixed Income Clearing Corporation ("FICC") filed with the Securities and Exchange Commission ("Commission") and on December 11, 2003, amended¹ proposed rule change SR-FICC-2003-10 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").² Notice of the proposal was published in the **Federal Register** on November 21, 2003.³ For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description

FICC is seeking to amend its cross-margining agreements with the Chicago Mercantile Exchange ("CME"), BrokerTec Clearing Company ("BCC"), and the Board of Trade Clearing Corporation ("BOTCC") and to eliminate its cross-margining agreement with the New York Clearing Corporation ("NYCC").

1. New Cross-Margining Agreement With CME

Through its Government Securities Division ("GSD"), FICC has a cross-margining arrangement with CME.⁴ FICC is proposing to terminate its existing cross-margining agreement with CME and to enter into a new cross-margining agreement with the CME ("New FICC-CME Agreement") to reflect the fact that, as of January 2, 2004, the CME will begin clearing certain Treasury and Agency futures contracts and options on such futures contracts that are traded on the Chicago

Board of Trade ("CBOT") and that are currently cleared by BOTCC. Under the New FICC-CME Agreement, the FICC products that will be eligible for cross-margining will be Treasury securities that fall into the GSD's offset classes A through G and GCF Repo Treasury securities with equivalent remaining maturities and non-mortgage-backed Agency securities that fall into the GSD's offset classes e and f and GCF Repo non-mortgage-backed Agency securities with equivalent remaining maturities. The CME products that will be eligible for cross-margining will be of two types: (i) The products currently eligible under the existing arrangement between FICC and CME which are Eurodollar futures contracts with ranges in maturity from 3 months to 10 years and options on such future contracts cleared by CME and (ii) the CBOT products which are Two-Year Treasury Note Futures contracts and options thereon, Five-Year Treasury Note Futures contracts and options thereon, Ten-Year Treasury Note Futures contracts and options thereon, Thirty-Year Treasury Bond Futures contracts and options thereon, Five-Year Agency Note Futures contracts and options thereon, and Ten-Year Agency Note Futures contracts and options thereon to be cleared by CME.

No significant changes are being proposed to the existing FICC-CME cross-margining arrangement other than the addition of the CBOT products and certain FICC products as discussed in more detail below. The key aspects of the cross-margining arrangement, most notably, the calculation of the cross-margining reduction and the loss sharing provisions in the event of a participant default are not being amended.

2. Key Proposed Changes to the Existing Cross-Margining Agreement Between FICC and CME

The addition of the CBOT products has necessitated new definitions for "CBOT Eligible Products," "CME Eligible Products," and "FICC Eligible Products," as well as Offset Class tables for these products in Appendix B of the agreement.

Appendix B of the FICC-CME Agreement is also being amended to include FICC's GCF Repo Treasury and non-mortgage-backed Agency products in the cross-margining arrangement.⁵ By the effective date of the New FICC-CME Agreement, FICC will be margining its GCF Repo Treasury and non-mortgage-

¹ The amendment was technical in nature and did not require republication of the notice of filing.

² 15 U.S.C. 78s(b)(1).

³ Securities Exchange Act Release No. 48796 (November 17, 2003), 68 FR 65753.

⁴ Securities Exchange Act Release No. 44301 (May 11, 2001), 66 FR 28207 (May 22, 2001) [File No. SR-GSCC-00-13].

⁵ This amendment is also being proposed for the BCC cross-margining arrangement as discussed below.

⁶ 17 CFR 200.30-3(a)(12).