

Jonathan G. Katz,

Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40363; International Series Release No. 1154; File No. SR-EMCC-98-03]

### Self-Regulatory Organizations; Emerging Markets Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Regarding Expansion of Eligible Instruments

August 25, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on April 28, 1998, the Emerging Markets Clearing Corporation ("EMCC") filed with the Securities and Exchange Commission ("Commission") and on August 20, 1998, amended 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 on the proposed rule change from interested persons and to grant accelerated approval.

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

The proposed rule change will amend EMCC's rules to expand EMCC eligible instruments to include sovereign debt.

#### 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.<sup>2</sup>

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

The proposed rule change expands the list of EMCC eligible instruments to

include debt issued by a sovereign issuer where: (1) the debt is rated in one of the four highest rating categories ("investment grade") by at least two Nationally Recognized Statistical Rating Organizations ("NRSRO")<sup>3</sup> or (2) the debt is rated (a) in one of the four highest rating categories by one NRSRO and some satisfactory transaction volume can be demonstrated or (b) in the next highest rating category below investment grade by one NRSRO and both substantial volume and transactions can be demonstrated to indicate liquidity exists.<sup>4</sup>

The proposed rule change also will provide that if sovereign debt fails to continue to meet one of the above requirements for a period of one consecutive year, EMCC will specifically consider and determine whether the sovereign debt should no longer qualify as an EMCC eligible instrument. EMCC's rules are being modified to specifically provide that if an instrument fails to qualify as an eligible instrument transactions that had been accepted by the EMCC prior to such determination will continue to be processed and will be treated as if they were transactions in EMCC eligible instruments.<sup>5</sup> Upon a determination that an instrument fails to qualify as an eligible instrument, no new transactions in such instrument will be accepted by EMCC for processing.

EMCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder because it will facilitate 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. EMCC will notify the Commission of any written comments received by EMCC.

<sup>3</sup> NRSRO shall have the same meaning as used in Rule 15c3-1(c)(2)(vi)(F).

<sup>4</sup> It is EMCC's understanding that sovereign debt issued by Brazil, Argentina, and Mexico currently meet one of the above requirements.

<sup>5</sup> Accordingly, the buy-in and sell-out provisions set forth in Sections 7 and 8 in EMCC's Rule 8 will continue to apply to such transactions.

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

Section 17A(b)(3)(F) of the Act<sup>6</sup> requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible. The Commission believes that the proposal is consistent with EMCC's obligations under Section 17A(b)(3)(F) because EMCC will apply its existing risk controls, such as its daily margining procedures, to issues of sovereign debt. EMCC's risk controls previously have been approved for use in EMCC's clearance and settlement of Brady Bonds, and EMCC has represented to the Commission that the controls are applicable to sovereign debt.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the publication of notice of the filing. Approving prior to the thirtieth day after publication of notice will allow EMCC to increase in a timely manner the number of securities that can be processed through EMCC, a registered clearing agency, instead of through riskier and less efficient means.

### 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. 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, D.C. 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-98-03 and should be submitted by September 21, 1998.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-

<sup>6</sup> 15 U.S.C. 78q-1(b)(3)(F).

<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.

EMCC-98-03) be and hereby is approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>7</sup>

**Jonathan G. Katz,**  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40354; File No. SR-NASD-98-54]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto by the National Association of Securities Dealers, Inc. Relating to Public and Non-member Access to Nasdaq's SelectNet and SOES Systems through a Member Firm's Own System

August 24, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on July 30, 1998, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") through its wholly owned subsidiaries, NASD Regulation, Inc. ("NASDR") and The Nasdaq Stock Market, Inc. ("Nasdaq"), the proposed rule change as described in Items I, II, and III below, with Items have been prepared by the NASD. On August 21, 1998, the NASD submitted to the Commission Amendment No. 1 to the proposed rule change.<sup>2</sup> 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 NASD is proposing to clarify in a Notice to Members the requirements for members to provide electronic access to Nasdaq's SelectNet service and

its Small Order Execution System ("SOES") to public customers and non-members through the member firm's own system.

The text of the proposed Notice to Members is included in Appendix I.

#### 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 NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposal. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in sections 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

With the advent of enhanced software and telecommunications capabilities, NASD members are able to provide their customers with efficient electronic access to SelectNet and SOES. Several members have asked NASD staff about the requirements for allowing such access. NASD staff envisions that this access capability would operate much the same way that the New York Stock Exchange has allowed its members to offer access to NYSE's DOT system. NASD staff is publishing a Notice to Members, attached as Appendix I, to clarify the NASD's interpretation of its rules and its contract with members and outline issues that NASD members must be aware of in offering their customers electronic access to Nasdaq's execution services. This Notice to Members follows up on an interpretive letter that Nasdaq staff issued to a member in April 1998 regarding non-member access to SelectNet.<sup>3</sup> The Notice to Members provides details not contained in the interpretive letter and expands the discussion to address non-member access to SOES as well as SelectNet. Because the services differ, the NASD has discussed issues regarding each system separately.

The NASD believes that the proposed rule change is consistent with Section 15A(b)(6) of the Act,<sup>4</sup> which requires, among other things, that the NASD's rules promote just and equitable

principles of trade, facilitate securities transactions, and protect investors.

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

The NASD 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, as amended.

##### 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 rule change has become effective upon filing pursuant to Section 19(b)(3)(A) of the Act<sup>5</sup> and Rule 19b-4(e)(1)<sup>6</sup> thereunder in that it constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of a self-regulatory organization.

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 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. 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

<sup>7</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> In Amendment No. 1, the Exchange made technical corrections to the proposed Notice to Members. See Letter from John Ramsay, Vice President and Deputy General Counsel, NASDR, to Richard Strasser, Assistant Director, Division of Market Regulation ("Division"), Commission, dated August 20, 1998 ("Amendment No. 1"). On August 24, 1998, additional technical amendments were made to the Notice to Members to correct typographical errors. Telephone conversation between David A. Spotts, Office of General Counsel, NASDR, and Kenneth Rosen, Attorney, Division, Commission (August 24, 1998).

<sup>3</sup> Letter from Eugene A. Lopez, Vice President, Trading and Market Services, Nasdaq, to Lloyd H. Feller, Morgan, Lewis & Bockius, dated April 15, 1998.

<sup>4</sup> 15 U.S.C. 78o-3(b)(6).

<sup>5</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>6</sup> 17 CFR 240.19b-4(e)(1). In reviewing this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).