

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40433; File No. SR-EMCC-98-08]

Self-Regulatory Organizations; Emerging Markets Clearing Corporation; Notice of Filing of a Proposed Rule Change Relating to the Offering of Shares of Common Stock

September 11, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on August 17, 1998, 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 from interested persons on the proposed rule change.

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

Under the proposed rule change, EMCC will reclassify 2,000 shares of previously authorized EMCC common stock as Class A common stock ("Class A stock") and will create a second class of common stock. In addition, EMCC will amend its shareholder agreement to reflect the changes to its common stock.

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

On March 2, 1998, the Commission authorized EMCC to issue 2,000 shares of common stock ("original stock").³ On July 31, 1998, EMCC filed an

amendment to its certificate of incorporation to reclassify the original stock as Class A stock and to authorize the issuance of non-voting Class B stock. The creation and offering of the Class B stock will permit EMCC to raise additional capital which EMCC will use in part to fund the development of EMCC projects.

EMCC will offer shares of Class B stock to the same entities that were offered the opportunity to purchase the original stock.⁴ The purchase price of Class B stock is \$1,000 per share with a minimum purchase requirement of \$25,000. EMCC will offer the Class B shares to prospective buyers through an offering letter.⁵

The Class B stock is non-voting and is subject to repurchase upon the determination of EMCC's Board. However, EMCC has no obligation to repurchase Class B shares owned by a member that terminates its EMCC membership prior to the repurchase of all Class B shares. All purchasers of Class A and Class B stock will be required to enter into an amended version of EMCC's shareholder agreement. No dividends will be paid on either the Class A or Class B stock and shareholders may sell or transfer their shares only in compliance with EMCC's shareholder agreement.

EMCC's amended shareholder agreement will replace the shareholder agreement written for the original offering.⁶ The changes to the shareholder agreement will reflect (i) the creation and offering of the Class B stock, (ii) the conditions under which EMCC may repurchase the Class B stock, and (iii) the fact that EMTA has not yet been issued any shares of EMCC stock. In addition, the amended shareholder agreement will permit EMCC to issue EMTA 300 Class A shares prior to, concurrent with, or after the closing of the issuance of Class A stock to all other persons. A further modification will reflect that the issuance of the original stock did not occur prior to the previously established deadline of June 30, 1998, and that the issuance and sale of Class A stock must be completed by December 31, 1998.

⁴ The original stock was offered to the entities that contributed to the development fund for the organization and initial operation of EMCC.

⁵ Each prospective purchase of the original stock was provided with a copy of EMCC's Form CA-1 (excluding the confidential documents). EMCC will provide the prospective purchasers of the Class B stock with updates to the Form CA-1 as appropriate.

⁶ The signatories of the amended shareholder agreement are the National Securities Clearing Corporation ("NSCC"), the International Securities Markets Association ("ISMA"), and the Emerging Markets Traders Association ("EMTA").

EMCC contemplates issuing the Class A and Class B stock on September 25, 1998. Each purchaser of Class A or Class B shares will be obligated to enter into the amended shareholder agreement.

After the Class A stock has been issued, EMCC will amend its articles of incorporation to permit the following actions to be taken upon a two-thirds vote of the shareholders instead of the current requirement of unanimity: (i) any amendment or change to EMCC's certificate of incorporation; (ii) any adoption, amendment or repeal by the shareholders of by-laws of the corporation; (iii) any repurchase of any securities issued by the corporation; and (iv) any issuance of any securities by the corporation.

EMCC believes the proposed rule change is consistent with the requirements of Section 17A of the Act⁷ and the rules and regulations thereunder because the additional capital raised by the Class B offering will further EMCC's ability to provide for the prompt and accurate clearance and settlement of emerging markets securities.

(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.

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

Within thirty-five 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 ninety 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 EMCC 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.

⁷ 15 U.S.C. 78q-1.

¹ 15 U.S.C. 78s(b)(1).

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

³ Securities Exchange Act Release No. 39694 (March 2, 1998), 63 FR 10251 [File No. SR-EMCC-98-01].

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. 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 Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of EMCC.

All submissions should refer to File No. SR-EMCC-98-08 and should be submitted by October 13, 1998.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁸

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98-25133 Filed 9-18-98; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40365A; File No. SR-NASD-98-29]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change and Amendment No. 1 Thereto and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 2 to Proposed Rule Change Relating to Standards for Individual Correspondence

September 15, 1998.

Correction

In FR Document No. 98-23769, beginning on page 47062 for Thursday, September 3, 1998, make the following correction. On page 47063, second column, the first full paragraph, revise the first sentence to read:

The NASDR proposes to define the word "correspondence" in new subparagraph (a)(3) to NASD Rule 2210 as " * * * [a]ny written or electronic communication prepared for delivery to a single current or prospective customer, and not for dissemination to multiple customers or the general public."

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98-25130 Filed 9-18-98; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40437; File No. SR-NASD-98-60]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Nasdaq's Automated Confirmation Transaction Service

September 14, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on August 12, 1998, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its wholly-owned subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by Nasdaq. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to grant accelerated approval 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 is designed to integrate Nasdaq's Automated Confirmation Transaction Service ("ACT") trade reporting system with the recently approved Order Audit Trail System ("OATS"). The text of the proposed rule change is available at the Office of the Secretary, Nasdaq, and at the Commission.

¹ 17 CFR 200.30-3(a)(12).

¹⁵ U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

In its filing with the Commission, Nasdaq 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 III below. Nasdaq 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

1. Purpose

Nasdaq is proposing to amend its ACT trade-reporting rules to integrate them with the OATS rules, which were recently approved by the Commission.³ OATS is designed to provide the NASD's regulatory subsidiary, NASD Regulation, Inc. ("NASDR"), with the ability to reconstruct markets promptly, conduct efficient surveillance, and enforce NASD and SEC rules. The Commission has directed that OATS must provide an accurate, time-sequenced record of orders and transactions from the receipt of an order through its execution.⁴ To accomplish this goal, NASDR will combine information submitted to OATS with transaction data reported by members through ACT, as well as quotation information disseminated by Nasdaq. These proposed rules provide for the submission of data to ACT sufficient to allow for effective analysis and comparison of trading activity.

Under the proposal, all trade reports for OATS-eligible securities entered into Nasdaq's ACT system will be required to have a time of execution expressed in hours, minutes, and seconds. Such trade reports also will be required to have an order identifier, to be prescribed by the Association, sufficient to allow a comparison of the information contained in the trade report with data submitted to NASDR via OATS. In addition, Nasdaq is proposing to codify the requirement that all ACT participants, including those who have trade report information submitted to

³ See Securities Exchange Act Release No. 39729 (March 6, 1998) 63 FR 12559 (March 13, 1998) (order approving OATS rules); NASD Notice to Members 98-33 (March 1998).

⁴ See In the Matter of National Association of Securities Dealers, Inc., Securities Exchange Act Release No. 37538, August 8, 1996; Administrative Proceeding File No. 3-905, at 7-8.

⁸ 17 CFR 200.30-3(a)(12).