concerned. Each Co-Investing Fund will bear its own expenses associated with the disposition of a portfolio security. The Independent Directors or Independent General Partners of each Co-Investing Fund will record in their records the Investment Managers' recommendation and their decision as to whether to participate in such disposition, as well as the basis for their decision that such action is fair and reasonable to, and is in the best interest of, the Co-Investing Fund.

6. A decision by a Co-Investing Fund (i) not to participate in a co-investment transaction, (ii) to take less or more than its full allocation, or (iii) not to sell, exchange, or otherwise dispose of a co-investing Funds electing to participate shall include a finding that such decision is fair and reasonable to the Co-Investing Fund and not the result of overreaching of the Co-Investing Fund or its Investors by any person concerned. The Independent Directors or Independent General Partners of a Co-Investing Fund will be provided quarterly for review all information concerning co-investment transactions made by the Co-Investing Funds, including co-investment transactions in which a Co-Investing Fund has declined to participate, so that they may determine whether all co-investment transactions made during the preceding quarter, including those co-investment transactions that were declined, complied with the conditions set forth above. In addition, the Independent Directors or Independent General Partners of a Co-Investing Fund will consider at least annually the continuing appropriateness of the standards established for co-investment transactions by a Co-Investing Fund, including whether use of the standards continues to be in the best interests of the Co-Investing Fund and its Investors and does not involve overreaching of the Co-Investing Fund or its Investors on the part of any party concerned.

7. The Independent Directors or Independent General Partners of each Co-Investing Fund will maintain the records required by section 57(f)(3) of the Act, and will comply with section 57(h) of the Act, and each Co-Investing Fund will otherwise maintain all records required by the Act. All records referred to or required under these conditions will be available for inspection by the SEC, and will be preserved permanently, the first two years in an easily-accessible place.

8. No Director of affiliated person of any Director or General Partner (other than a BDC sponsored and managed by the Investment Managers) will participate in a transaction with a Co-Investing Fund unless a separate exemptive order with respect to such transaction has been obtained. For this purpose, the term ''participate'' shall not include either the Investment Managers' existing General Partner interests in, or their normal compensation and expense reimbursement arrangements with, each Co-Investing Fund.

9. No co-investment transactions will be made pursuant to the requested order respecting portfolio companies in which any applicant or affiliated person of any applicant has previously acquired an interest, provided that this prohibition shall not be applicable to any previously acquired interest, provided that this prohibition shall not apply to any previous investment specifically permitted by an order of the SEC.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40705; File No. SR–EMCC–98–08]

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

November 24, 1998.

On August 17, 1998, Emerging Markets Clearing Corporation (''EMCC'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change (File No. SR–EMCC–98–08) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on September 21, 1998.[2] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

Pursuant to the rule change EMCC has reclassified 2,000 shares of previously authorized EMCC common stock as Class A common stock (''Class A stock'') and has created a second class of common stock. In addition, the rule change amends EMCC's shareholder agreement to reflect the changes to the common stock.

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 authorized the issuance of non-voting Class B stock. The creation and offering of the Class B stock is intended to permit EMCC to raise additional capital which EMCC will use in part to fund the development of EMCC projects.

Under the rule change, EMCC will offer the shares of Class B stock to the same entities that were offered the opportunity to purchase the original stock.[4] The purchase price of the Class B stock is $1,000 per share with a minimum purchase requirement of $25,000. EMCC is offering 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 shareholders 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 amended shareholder agreement.

EMCC's amended shareholder agreement replaces the shareholder agreement written for the original offering.[6] The changes to the shareholder agreement 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 permits EMCC to issue EMTA 300 Class A shares prior to, concurrent with, or after the closing of

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 40433 (September 11, 1998), 63 FR 50271.

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

[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 purchaser 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'').

the issuance of Class A stock to all other persons. A further modification reflects that the issuance of the original stock did not occur prior to the previously established deadline of June 30, 1998, and provides that the issuance and sale of Class A stock must be completed by December 31, 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.

II. Discussion

Section 17A(b)(3)(A) of the Act [7] requires that a clearing agency be so organized and have the capacity to facilitate the prompt and accurate clearance and settlement of securities transactions. The Commission believes that the rule change is consistent with EMCC's obligations under Section 17A(b)(3)(A) because the additional capital raised by the issuance of the stock should enable EMCC to increase the efficiency of its clearance and settlement of securities transactions. In addition, the amendments to EMCC's articles of incorporation make more efficient EMCC's ability to take corporate actions that may be necessary to facilitate the clearance and settlement of securities transactions.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular with Section 17A of the Act [8] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–EMCC–98–08) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

[7] 15 U.S.C. 78q–1(b)(3)(A).

[8] 15 U.S.C. 78q–1.

[9] 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–32041 Filed 12–1–98; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40706; File No. SR–NASD–98–87]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to the Filing Fees Under the Corporate Financing Rule

November 24, 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 November 23, 1998, the National Association of Securities Dealers, Inc. (''NASD''), through its wholly owned subsidiary, NASD Regulation, Inc. (''NASD Regulation'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD Regulation. 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

NASD Regulation is proposing to amend Section 6 of Schedule A to the NASD By-laws and NASD Conduct Rule 2710, to delete the provisions mandating that Corporate Financing filing fees be paid in the form of a check or money order. Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

Schedule A to the NASD By-Laws

Assessments and fees pursuant to the provisions of Article VI of the By-Laws of the Corporation, shall be determined on the following basis.

Section 1–Section 5 No Change

Section 6—Fees for Filing Documents Pursuant to the Corporate Financing Rule

(a) No change.
(b) No change.
[(c) Filing fees shall be paid only in the form of check or money order payable to the National Association of Securities Dealers, Inc.]
[(d)](*c*) The provisions of Rule 457 adopted under the Securities Act of 1933, as amended, shall govern the computation of filing fees for all offerings filed pursuant to this Section, including intrastate offerings, to the extent the terms of Rule 457 are not inconsistent with this Section.

Section 7–Section 15 No change

* * * * *

2710. Corporate Financing Rule—Underwriting Terms and Arrangements

(a) Definitions No change
(b) Filing Requirements.
(1)–(9) No change.
(1) Filing Fees.
(A) No change.
(B) No change.
[(C) Filing fees shall be paid only in the form of a check or money order payable to the National Association of Securities Dealers, Inc.]
[(D)](*C*) The provisions of SEC Rule 457 adopted under the Securities Act of 1933, as amended, shall govern the computation of filing fees for all offerings filed pursuant to this Rule, including intrastate offerings, to the extent the terms of Rule 457 are not inconsistent with subparagraph (a)[,] *or* (B) [or (C)] above.
(11)–(13) renumbered (10)–(12). (c) No change.

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

In its filing with the Commission, NASD Regulation 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. NASD Regulation 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

NASD Conduct Rule 2710 (the ''Corporate Financing Rule'') requires that members file most proposed public offerings with the Corporate Financing Department (''Department'') of NASD Regulation. The Corporate Financing Department reviews these filings in order to determine whether the underwriting terms and arranagements are fair and reasonable pursuant to standards set forth in Rules 2710, 2720, and 2810 prior to the commencement of the offering. Section 6 of Schedule A to the NASD By-Laws (''Schedule A'') and Paragraph (b)(10) of Conduct Rule 2710 include identical provisions that impose a fee on each filing, in the amount of $500 plus .01% of the value of securities, with a maximum filing fee

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.