Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 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 at the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–99–39 and should be submitted by September 8, 1999.

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

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41732; File No. SR–CBOE–99–30]

August 11, 1999.

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Elimination of the Prohibition Against Market-Maker Surcharges on Single-List Issues

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 June 23, 1999, the Chicago Board Options Exchange, Inc. (''CBOE'' 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 CBOE. 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 CBOE proposes to amend CBOE Rule 2.40, *Market-Maker Surcharge for Brokerage,* to eliminate the restriction against a surcharge from being assessed on trades in classes not traded on another options exchange. The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

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 CBOE included statements concerning the purpose of a and statutory 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 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

The Exchange recently received approval from the Commission to assess a surchange on market-makers trading in multiply-listed classes pursuant to new CBOE Rule 2.40.[3] The Exchange believes CBOE Rule 2.40 will enable the Exchange to compete for order flow more effectively against other options exchanges.

In this present filing, the Exchange proposes to eliminate a restriction in paragraph (e) of CBOE Rule 2.40 which prohibits a surcharge from being assessed on trades in classes not traded on another options exchange. When the Commission approved Exchange Rule 2.40 recently, the Commission stated that it believes ''that the proposed rule change, as amended, is a reasonable effort by CBOE to better enable its competitive market-maker crowds to compete for multiply-listed options with other exchanges that employ a specialist system.'' [4] While the Exchange agrees that the proposed rule provides the Exchange with the tools to compete more effectively in attracting order flow in multiple list issues, the Exchange believes CBOE Rule 2.40 would be more effective and useful if the restriction against imposing a surcharge on single-list issues was eliminated.

The Exchange believes CBOE Rule 2.40 would be more effective by eliminating this restriction,[5] because specialists on other exchanges, who may trade both single-list and multiple-list issues, have greater flexibility than CBOE market-makers currently having using CBOE Rule 2.40 to adjust their transaction fees. Specifically, these specialists are able to seek to attract customer loyalty and a larger portion of their order flow in the multiple-listed issues by reducing fees and charges not just for those multiple-listed classes, but also for the single-list classes. Consequently, the Exchange will find it more and more difficult to compete for order flow in multiple-listed issues—even with Exchange Rule 2.40 in place—as long as specialists are able to entice firms to send order flow to them by more broadly reducing their fees, to include their single-list issues. The elimination of the single-list prohibition will allow the Exchange to provide the surcharge to floor brokers (thereby inducing a reduction in their brokerage rates on customer orders) and/or to reduce the book brokerage rate in single-list issues which will expand the benefit of this program and the potential benefit to customers.

In requesting the Exchange to revise its original proposal to limit the surcharge to multiple-listed issues only, the Exchange is aware that the commission believed that competition among exchanges in the multiple-listed classes would obviate the risk that the spreads in these classes would not be widened to compensate for the cost of market-makers of any surcharges. As the need for the proposed rule change makes clear, that same rationale extends to single-list classes, since the overall competition for order flow encompasses all issues, whether single- or multiple-list. Moreover, the Exchange believes that current safeguards in CBOE Rule 2.40 will protect against a widening of the spreads on the single-list issues which become subject to a surcharge. Specifically, the cap on the surcharge amount of $0.25/contract should help to ensure that spreads are not widened in the single-list issues.[6] Of course, the Exchange is also obligated to analyze data comparing spreads before and after the imposition of the surcharge so any

[9] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 41121 (February 26, 1999), 64 FR 1123 (March 9, 1999).

[4] *Id., 64 FR at 11525.*

[5] The Exchange added the prohibition against imposing the surcharge on single list issues at the suggestion of Commission staff.

[6] As the Exchange noted in Amendment No. 1 to SR–CBOE–98–35 (dated February 26, 1999), the minimum bid-ask spread for the option class is $6.25 (one sixteenth of a dollar ($0.0625) times a multiplier of 100 since one option contract represents 100 shares of stock) although the actual spread for many options in wider. (Given that the spread is usually at $6.25 or greater, the Exchange believes it is unlikely that spreads would be adjusted to account for a surcharge of $0.25 or less.

possible ill effects of the elimination of the prohibition will be readily noted. Finally, the Exchange believes the elimination of this prohibition against imposing the surcharge on single-list issues would be fair. Specialists on the other exchanges today are able to change their fees on their single-list issues without having to study or justify any possible effect this action may have on the spreads in those issues. The Exchange wants to provide its marketmakers with the same ability to apply the surcharge to single-list issues.[7]

2. Statutory Basis

The CBOE believes that the proposed rule change is in furtherance of Section 6(b)(5) the Act[8] in that it is designed to remove impediments to a free and open market and to protect investors and the public interest.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

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 such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

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 at the Commission's Public Reference Room. Copies of such filing will be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CBOE–99–30 and should be submitted by September 8, 1999.

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

Margaret H. McFarland,

Deputy Secretary.

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[7] Under CBOE Rules 2.40 the appropriate Floor Procedure Committing actually imposes the surcharge on a class of options but the market-makers in the training crowd may recommend a surcharge amount.

[8] 15 U.S.C. 78f(b)(5).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release 34–41733; File No. 600–30]

Self-Regulatory Organizations; Emerging Markets Clearing Corporation; Notice of Filing and Order Approving a Request for Extension of Temporary Registration as a Clearing Agency

August 12, 1999.

Notice is hereby given that on July 1, 1999, the Emerging Markets Clearing Corporation (''EMCC'') filed with the Securities and Exchange Commission (''Commission'') an application pursuant to Section 19(a)(1) of the Securities Exchange Act of 1934 (''Act'')[1] requesting that the Commission extend EMCC's temporary registration as a clearing agency for one year.[2] The Commission is publishing this notice and order to solicit comments from interested persons and to extend EMCC's temporary registration as a clearing agency until August 20, 2000.

On February 13, 1998, pursuant to Sections 17A(b) and 19(a)(1) of the Act[3] and Rule 17Ab2–1 promulgated thereunder,[4] the Commission granted EMCC's application for registration as a clearing agency until August 20, 1999.[5] EMCC was created to facilitate the clearance and settlement of transactions in U.S. dollar denominated Brady Bonds.[6]

EMCC began operating on April 6, 1998, with ten dealer members and five interdealer brokers clearing through Daiwa Securities America, Inc.[7] In its first month of operation, EMCC members achieved an average trade-date matching the rate of over 97 percent on 71 eligible securities for an average volume of over 360 sides per day.[8] Prior to EMCC beginning its operations, approximately only 40 percent of trades compared on trade date resulting in a considerable number of failed transactions.[9] During its temporary registration period, EMCC typically handled 700 sides per day. However, during the market crisis in Asia, Latin America, and Russia, EMCC successfully handled volume in excess of 1,000 sides per day.[10]

During its temporary registration period, EMCC expanded the list of eligible instruments to include not only Brady Bonds but also the sovereign debt of any emerging market country.[11] EMCC also modified its rules to allow it to accept data directly from either its members or from service bureaus and to compare trades.[12]

As part of EMCC's temporary registration, the Commission granted EMCC temporary exemptions from Section 17A(b)(3)(B) of the Act because EMCC did not provide for the admission of some of the categories of members

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

[2] Letter from Richard Paley, Associate Counsel, EMCC (July 1, 1999) and Form CA–1 (July 1, 1999).

[3] 15 U.S.C. 78q–1(b) and 78s(a)(1).

[4] 17 CFR 240.17Ab2–1.

[5] Securities Exchange Act Release No. 39661, International Series Release No. 1117 (February 13, 1998), 63 FR 8711 (February 20, 1998) (''Registration Order'').

[6] Brady bonds are restructured bank loans. They were first issued pursuant to a plan developed by then U.S. Treasury Secretary Nicholas Brady to assist debt-ridden countries restructure their sovereign debt into commercially marketable securities. The plan provided for the exchange of bank loans for collateralized debt securities as part of an internationally supported sovereign debt restructuring. Typically, the collateral would be U.S. Treasury securities.

[7] EMCC has been advised that Daiwa will stop providing clearing services for interdealer brokers by the end of September 1999.

[8] EMCC Annual Report, p. 2.

[9] *Id.*

[10] *Id.*

[11] Securities Exchange Act Release No. 40363 (August 25, 1998), 63 FR 46 46263 (August 31, 1999).

[12] Securities Exchange Act Release No. 41247 (April 2, 1999), 64 FR 17705 (April 12, 1998).