

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-49826; File No. SR-EMCC-2004-07)

June 8, 2004

Self-Regulatory Organizations; Emerging Markets Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Applicants' and Members' Financial Reporting Obligations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on April 2, 2004, the Emerging Markets Clearing Corporation ("EMCC") filed a proposed rule change with the Securities and Exchange Commission ("Commission") 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 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 proposed rule change revises EMCC Rule 13 ("Financial Responsibility and Operational Capability") to specifically set forth the types of financial materials that EMCC expects its members and applicants to submit to it.

**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>

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<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.

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

EMCC's Rule 13 provides that EMCC has the authority to examine the financial responsibility of any member or applicant to become a member. Rule 13 also provides that in conducting such examinations, EMCC may require a member or applicant to furnish such information to EMCC as EMCC deems necessary to evaluate the member's or applicant's financial and operational capability.

This proposed rule change formally memorializes EMCC's general practice of requesting applicants and members to provide, as applicable, FOCUS, Call, or SFA reports and returns on an ongoing basis. Accordingly, to ensure that its members are fully aware of the requirements imposed upon them, EMCC has determined to modify Rule 13 to specifically enumerate the types of documents that EMCC expects to receive from members and applicants. These documents include, but are not limited to:

- (i) financial statements, audited and unaudited;
  - (ii) FOCUS reports or FOGS reports (for US registered broker-dealers) submitted to the designated examining authority and any supplemental reports required to be filed with the Commission pursuant to SEC Rule 17a-11 or 17 C.F.R. Section 405.3, or any successor rules or regulations thereto;
  - (iii) Call Reports (for U.S. banks) submitted to the appropriate regulatory agency and, to the extent not contained within such Call Reports (or to the extent that Call Reports are not required to be filed), information containing capital levels and ratios, as such levels and ratios are required
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to be provided to the appropriate regulatory agency; and

- (iv) SFA monthly reports and returns (for non-U.S. registered broker-dealers subject to regulation by the SFA).

EMCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act<sup>3</sup> and the rules and regulations thereunder as the proposed rule change clarifies for its applicants and members EMCC's requirements with respect to provide financial materials to EMCC.

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 it receives.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(i) of the Act<sup>4</sup> and Rule 19b-4(f)(1)<sup>5</sup> thereunder because it constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule. At any time within sixty days of the filing of such rule change, the Commission could have summarily abrogated such rule change if it appeared to the Commission that such action was necessary or appropriate in the public interest, for the protection of investors, or otherwise in

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<sup>3</sup> 15 U.S.C. 78q-1.

<sup>4</sup> 15 U.S.C. 78s(b)(3)(A)(i).

<sup>5</sup> 17 CFR 240.19b-4(f)(1).

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. Comments may be submitted by any of the following methods:

##### Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-EMCC-2004-07 on the subject line.

##### Paper comments:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609.

All submissions should refer to File Number SR-EMCC-2004-07. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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 EMCC's principal office and on EMCC's Web site at [www.e-m-c-c.com](http://www.e-m-c-c.com). All

comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-EMCC-2004-07 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

Margaret H. McFarland  
Deputy Secretary

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<sup>6</sup> 17 CFR 200.30-3(a)(12).