

File No. SR-EMCC-2004-06

Securities and Exchange Commission
Washington, D.C. 20549

Form 19b-4

Proposed Rule Change

By

EMERGING MARKETS CLEARING CORPORATION

Pursuant to Rule 19b-4 under the
Securities Exchange Act of 1934

1. Text of Proposed Rule Change.

(a) The text of the proposed rule change consists of revisions to Emerging Markets Clearing Corporation's ("EMCC" or the "Corporation") Rule 2 – Members and Addendum D – Opinion, Annexes 1 and 2 and is attached hereto as Exhibit A.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization.

(a) The proposed rule change was approved by the Membership and Risk Management Committee pursuant to authority delegated by the Board of Directors.

(b) Contact regarding questions and comments:

Karen L. Saperstein (212) 855-3203.

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

(a) EMCC's Rule 2 section 2 (b) requires each applicant to become a Member to deliver to the Corporation an opinion of counsel. The rule also states that for domestic applicants the opinion should be substantially to the effect of the one set forth in Annex 2 to Addendum D of EMCC's rules and for non-domestic applicants it must be substantially to the effect of the one set forth as Annex 1 to Addendum D. In each case the opinion has to be otherwise acceptable to EMCC. There has been some confusion about whether EMCC is required to obtain an opinion "in the form of" as opposed to "to the effect of" the ones annexed

to Addendum D, and these documents do not clearly indicate whether an opinion may set forth a reservation or exception. To clarify this, EMCC is replacing both annexes with a document which sets forth the issues which an opinion must address (without specifying the form) and indicates those points to which EMCC could expect to see reservations or exceptions. The proposed rule change will make a corresponding clarifying change to Rule 2. Nevertheless, the rule will continue to provide that any opinion must still be acceptable to EMCC. Neither of these changes will impact what will continue to require from applicants but will eliminate the confusion over the form of the opinion which EMCC expects (and has) received.

Annex 1 will now provide that for domestic applicants the opinion will be required to:

1. Address whether the applicant is duly organized, validity existing and in good standing and the jurisdiction in which this applies.
2. Address whether the applicant has full power and authority to enter into the agreements.
3. Confirm that the execution, delivery and performance of the agreements are not in contravention of any authorizing document, rule or regulation or, to the extent that a blanket representation can not be given, an explanation of any limitations.
4. Confirm that no other authorizations or actions are required from any regulatory authority in connection with the execution, delivery and performance of the agreements or specify those that are required to be obtained and the status of those actions.
5. Indicate that the agreements are legal, valid, binding and enforceable obligations against the company and any exceptions that need to be noted.

Annex 2 will now provide that for Non-domestic applicants the opinion will be required to:

1. Address whether the applicant is duly organized, validly existing and in good standing and the jurisdiction in which this applies.
2. Address whether the applicant has full power and authority to enter into the agreements.
3. Confirm that the agreements are legal, binding and enforceable and specify the jurisdiction in which this applies or confirm that the courts in that jurisdiction would give effect to the choice of New York Law as the governing law and any exceptions that need to be noted.
4. Confirm that submission to the jurisdiction of the federal and state courts in New York is enforceable in the jurisdiction referenced in point 3 and any exceptions which must be noted.
5. Explain how netting and novation are treated in the jurisdiction referenced in point 3 and how this would impact the obligations of the applicant.
6. Explain the extent to which a court in the jurisdiction referenced in point 3 would apply New York law to perfected security interests under the agreements.
7. Explain how insolvency, liquidation or other similar actions affecting creditor's rights impact the obligations of the applicant.
8. Confirm that the agreements will not conflict with or be impeded by the laws or regulations issued in the jurisdiction referenced in point 3 or explain any exceptions to this statement.
9. Explain the degree to which EMCC may initiate an action against the applicant in the jurisdiction referenced in point 3 without having to first obtain a judgment against the applicant in the United States.
10. Explain whether there are any restrictions or limitations on the applicant's ability to provide information or documents which may be requested pursuant to EMCC's rules.
11. Confirm that no other authorizations or actions are required from any regulatory authority in connection with the execution, delivery and performance of the agreements or specify those that are required to be obtained and the status of those actions.

(b) As the proposed rule change will clarify what is expected from applicants with regard to legal opinions, it will enable the Corporation to better enforce compliance with its rules and therefore is consistent with the requirements of the Securities Exchange Act of 1934, as amended (the "Act"), and the rules and regulations thereunder.

4. 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.

5. 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.

6. Extension of Time Period for Commission Action.

Not applicable.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2).

(a) The proposed rule change is to take effect pursuant to paragraph (A) of Section 19(b)(3) of the Act.

(b) As the proposed rule change clarifies the existing requirements imposed on applicants without changing the requirements, it makes a change to an existing rule that does not substantially affect the rights or obligations of members.

(c) Not applicable.

(d) Not applicable.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission.

The proposed rule change is not based on a rule either of another self-regulatory organization or of the Commission.

9. EXHIBITS

Exhibit A Text of the proposed change to EMCC's Rules.

Exhibit B Notice of the proposed rule change for publication in the Federal Register.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the self-regulatory organization has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

EMERGING MARKETS CLEARING CORPORATION

BY: /s/ Karen L. Saperstein

Karen L. Saperstein
General Counsel

EXHIBIT A

Underlined, boldface text indicates additions.

~~[Strikethrough and Bracketed]~~ indicates deletions.

* * *

MEMBERS

Rule 2. SEC. 1. The Corporation shall provide services to those organizations, entities or persons who qualify as Members under these Rules and who apply to the Corporation to act for them, whose applications are approved by the Corporation and who have contributed to the Clearing Fund as provided in Rule 4. A partnership, corporation, limited liability company or other organization, entity or individual shall be qualified to become a Member if it satisfies at least one of the following qualifications:

(i) it is a broker or dealer registered under the Exchange Act ("Registered Broker-Dealer");

(ii) it is a broker or dealer registered or regulated under the laws of the jurisdiction, other than the U.S., in which it is organized or established ("Non-U.S. Registered Broker-Dealer");

(iii) it is a bank or trust company, including a trust company having limited power, which is a member of the Federal Reserve System or is supervised and examined by state or federal authorities in the U.S. having supervision over banks ("U.S. Bank");

(iv) it is a bank or trust company, which is supervised and examined by the banking regulator in the jurisdiction, other than the U.S., in which it is organized or established ("Non-U.S. Bank"); or

(v) if it does not qualify under paragraphs (i) through (iv) above but is the successor or assigns of any Member and has demonstrated to the Board of Directors that its business and capabilities are such that it could use the Corporation's services without undue risk; provided, however, that if admitted under this section it may become a Member only for the limited purpose of winding up the business of the predecessor Member in an orderly manner.

A partnership, corporation, limited liability company or other organization, entity or

individual whose application to become a Member has been approved by the Corporation shall pay to the Corporation its original contribution to the Clearing Fund determined in accordance with the provisions of Rule 4 and shall sign and deliver to the Corporation an instrument in writing whereby such applicant shall agree as provided in Section 2 of this Rule.

Only Members shall be entitled to settle contracts through the Corporation. A Member who settles or carries out through the Corporation any contract or transaction for a partnership, corporation, limited liability company or other organization, entity or individual who is not a Member ("Non-Member"), shall, so far as the rights of the Corporation and all other Members are concerned, be liable as a principal. A Non-Member who compares, settles or carries out transactions through a Member shall not possess or be deemed to possess any of the rights or benefits of a Member.

SEC. 2. (a) Each applicant to become a Member shall sign and deliver to the Corporation an instrument in writing whereby the applicant shall agree:

[(a)](i) to abide by the Rules of the Corporation and to be bound by all the provisions thereof and that the Corporation shall have all the rights and remedies contemplated by the Rules of the Corporation;

[(b)](ii) that the Rules of the Corporation shall be a part of the terms and conditions of every contract or transaction which it may make or have with the Corporation;

[(c)](iii) not to clear or settle through the Corporation any contract or transaction unless the Rules of the Corporation are a part of the terms and conditions of such contract or transaction;

[(d)](iv) to pay to the Corporation the compensation provided for by the Rules of the Corporation for clearing and other services rendered and such fines as may be imposed in accordance with such Rules of the Corporation for the failure to comply therewith;

[(e)](v) to pay to the Corporation any amounts which pursuant to the provisions of the Rules of the Corporation shall become payable by the Member to the Corporation;

[(f)](vi) that its books and records shall at all times be open to inspection by the duly authorized representatives of the Corporation and that the Corporation shall be furnished with all such information in respect of its business and transactions as the

Corporation may require, provided that if it shall cease to be a Member, the Corporation shall have no right to inspect its books and records or to require information relating to transactions wholly subsequent to the time when it ceased to be a Member;

[(g)](vii) that the determination of the Corporation by the Board of Directors of all questions affecting the charges to which its contribution to the Clearing Fund are or may be subject shall be final and conclusive;

[(h)](viii) to be bound by any amendment to the Rules of the Corporation with respect to any transaction occurring subsequent to the time such amendment takes effect as fully as though such amendment were now a part of the Rules of the Corporation, provided, however, that no such amendment shall affect its right to cease to be a Member or alter the provisions of Rule 4 of the Corporation unless before such amendment becomes effective it is given an opportunity to give written notice to the Corporation of its election that the Corporation shall cease to act for it; and that its agreement with the Corporation shall inure to the benefit of and be binding upon the parties thereto and their respective successors and assigns;

[(i)](ix) to submit to the jurisdiction of the Courts of the State of New York and the U.S. District Court for the Southern District of New York;

[(j)](x) to appoint a Person acceptable to the Corporation as its agent to receive on its behalf service of process if it is accepted as a Member under Section 1(ii) or (iv) of this Rule;

[(k)](xi) its Membership in the Corporation and its use of the services shall be governed by the laws of the State of New York;

[(l)](xii) that any judgment obtained in an action or proceeding may be enforced in the courts of any jurisdiction where the applicant or any of its property may be found, and the applicant irrevocably submits to the jurisdiction of each such court in respect of any such action or proceeding;

[(m)](xiii) that, to the fullest extent permitted by law, any judgment shall be obtained in the currency in which a default of payment has occurred and that payment of such judgment shall be in such currency. If under the law of the jurisdiction in which judgment is obtained, judgment is not obtainable in the currency in which a default of payment occurred, or if the judgment amount is required to be converted to another currency (which shall be only U.S. dollars) on a date other than the date of payment, then notwithstanding any such judgment or requirement and as a separate obligation,

the applicant shall indemnify EMCC against any exchange loss, and EMCC shall remit to the applicant any exchange gain, between such other date and the date of payment.

Any exchange loss or exchange gain shall be measured by using the prevailing currency exchange rates on the respective dates, net of premiums and costs of exchange payable in connection with the conversion. Further, that any judgment for damages shall be in the currency in which the damages is suffered and that payment of such judgment shall be governed by the foregoing provisions.

~~[(n)]~~**(xiv)** to waive, to the fullest extent permitted by applicable law, all immunity (whether on the basis of sovereignty or otherwise) from jurisdiction, attachment (both before and after judgment) and execution to which it might otherwise be entitled in any action or proceeding in any county or jurisdiction, relating in any way to the agreement or to any transaction; and

~~[(o)]~~**(xv)** to provide, upon the request of and at no charge to the Corporation, research that it provides to any of its customers relating to EMCC Eligible Instruments and events or conditions which might affect the price of EMCC Eligible Instruments.

~~[(b) Each applicant to become a Member shall deliver to the Corporation an opinion of counsel substantially to the effect of Annex 1 to Addendum D to these Rules, with respect to Non-U.S. Registered Broker-Dealer applicants and Non-U.S. Bank applicants, or Annex 2 to Addendum D to these Rules, with respect to U.S. applicants, and otherwise acceptable to the Corporation.]~~

(b) Each applicant to become a Member shall deliver to the Corporation an opinion of counsel that addresses the points covered in Annex 1 to Addendum D for US registered broker/dealers and US regulated banks and trust companies and the points covered in Annex 2 to Addendum D for non-US registered broker/dealers and non-US regulated banks and trust companies.

(c) Each Non-U.S. Registered Broker-Dealer applicant and each Non-U.S. Bank applicant to become a Member shall deliver to the Corporation a Letter of Representations substantially to the effect of Addendum E to these Rules.

* * *

ADDENDUM D

OPINION

Non-U.S. Registered Broker-Dealer applicants and Non-U.S. Bank applicants shall deliver an Opinion **that addresses the points set forth in Annex 1 below** [~~to the effect of Annex 1, below~~].

[U.S. applicants shall deliver an Opinion to the effect of Annex 2, below.]

Annex 1 - Non-U.S. Registered Broker-Dealer applicants and Non-U.S. Bank applicants

- 1. Address whether the applicant is duly organized, validly existing and in good standing and the jurisdiction in which this applies.**
- 2. Address whether the applicant has full power and authority to enter into the agreements.**
- 3. Confirm that the agreements are legal, binding and enforceable and specify the jurisdiction in which this applies or confirm that the courts in that jurisdiction would give effect to the choice of New York Law as the governing law and any exceptions that need to be noted.**
- 4. Confirm that submission to the jurisdiction of the federal and state courts in New York is enforceable in the jurisdiction referenced in point 3 and any exceptions which must be noted.**
- 5. Explain how netted and novated transactions are treated in the jurisdiction referenced in point 3 and how this would impact the obligations of the applicant.**
- 6. Explain the extent to which a court in the jurisdiction referenced in point 3 would apply New York law to perfected security interests under the agreements.**

- 7. Explain how insolvency, liquidation or other similar actions affecting creditor's rights impact the obligations of the applicant.**
- 8. Confirm that the agreements will not conflict with or be impeded by the laws or regulations issued in the jurisdiction referenced in point 3 or explain any exceptions to this statement.**
- 9. Explain the degree to which EMCC may initiate an action against the applicant in the jurisdiction referenced in point 3 without having to first obtain a judgment against the applicant in the United States.**
- 10. Explain whether there are any restrictions or limitations on the applicant's ability to provide information or documents which may be requested pursuant to EMCC's rules.**
- 11. Confirm that no other authorizations or actions are required from any regulatory authority in connection with the execution, delivery and performance of the agreements or specify those that are required to be obtained and the status of those actions.**

~~[OPINION RELATING TO PROSPECTIVE NON-U.S. EMCC MEMBER~~

~~A non-U.S. EMCC applicant must provide EMCC with an opinion of outside counsel to the effect that:~~

~~The Member is duly organized, validly existing and in good standing under the laws of _____ and has full power and authority to enter into the Member's Agreement dated _____ (the "Member's Agreement") between the Company and EMCC, the Clearing Fund Agreement dated _____ (the "Clearing Fund Agreement") between the Company and EMCC, and the Letter of Representation dated _____ (the "Letter of Representation", collectively with the Member's Agreement and the Clearing Fund Agreement, the "Membership Agreements) and perform its obligations thereunder and under the Rules. Execution and delivery of the Membership Agreements have been duly authorized by all necessary corporate action of the Member and the Membership Agreements have been duly executed and delivered by the Member.~~

~~Either (i) the Membership Agreements are a legal, valid, binding and enforceable agreement~~

of the Member under _____ law or (ii) a _____ court would give effect to the parties' choice of New York law as the law governing the Membership Agreements.

The Member's submission to the jurisdiction of the federal and state courts in New York is enforceable against the Member under _____ law.

_____ law will treat as valid and enforceable obligations of a participant the netted and novated transactions created between participants of EMCC pursuant to EMCC's Rules and Procedures. There is no provision under _____ law which would prevent such obligations from being valid and enforceable obligations. A _____ court would apply the law of the State of New York in determining whether EMCC has a perfected security interest in property on deposit in the Clearing Fund held by EMCC through accounts at financial institutions located in New York. In addition, upon the insolvency of a participant, nothing in _____ law would prevent the exercise by EMCC of its right to (i) terminate and close out open receive and deliver obligations of that participant, (ii) set-off or otherwise apply any resulting loss from the close-out of any one transaction against any resulting profit or gain from the close-out of any other transaction and (iii) exercise any rights and remedies it may have in respect of letters of credit or other property posted by the participant as collateral (including deposits to the Clearing Fund and amounts received in respect of daily margin requirements) pursuant to EMCC's Rules, including any right to collect on, sell or otherwise dispose of, or retain, any such property in satisfaction of the participant's obligations to EMCC.

The Membership Agreements will not conflict with or be impeded by the laws or regulations of _____ and the United States. EMCC may initiate an action against the Member in _____ without first obtaining a judgment against the Member in the United States. The obligation of the Member to provide information to EMCC pursuant to the terms of the Membership Agreements and the Rules will not conflict with or be impeded by the laws or regulations of _____.

It is not necessary, either to ensure the validity of the Membership Agreements or to ensure compliance by the Member with mandatory provisions of _____ law, to obtain any authorization, approval, consent, order or permission of, or to effect any further filing, recording or registration with, any public authority or governmental agency in respect of:

- _____ (i) _____ the execution or delivery of the Membership Agreements; or
- _____ (ii) _____ the performance of the terms of the Membership Agreements or the Rules.]

U.S. Registered Broker-Dealer Applicants and U.S. Bank Applicants shall deliver an opinion that addresses the points set forth in Annex 2 below.

Annex 2 - U.S. applicants

1. **Address whether the applicant is duly organized, validity existing and in good standing and the jurisdiction in which this applies.**
2. **Address whether the applicant has full power and authority to enter into the agreements.**
3. **Confirm that the execution, delivery and performance of the agreements are not in contravention of any authorizing document, rule or regulation or to the extent that a blanket representation can not be given an explanation of any limitations.**
4. **Confirm that no other authorizations or actions are required from any regulatory authority in connection with the execution, delivery and performance of the agreements or specify those that are required to be obtained and the status of those actions.**
5. **Indicate that the agreements are legal, valid, binding and enforceable obligations against the company and any exceptions that need to be noted.**

[Form A -]

[FORM OF OPINION TO BE DELIVERED BY
COUNSEL TO PROSPECTIVE EMCC MEMBER NON-NEW YORK DOMESTIC
CORPORATION]

¹~~If the applicant is not a corporation, appropriate modifications may be made to this form of opinion to the extent necessary.~~

[LETTERHEAD OF OUTSIDE COUNSEL TO PROSPECTIVE MEMBER]

_____, 1997

~~Emerging Markets Clearing Corporation
55 Water Street
New York, New York 10041~~

~~Attn: General Counsel~~

~~Ladies and Gentlemen:~~

~~_____ We have acted as counsel for _____ (the "Company"),
a corporation organized under the laws of the State of **[fill in with appropriate State name]**,
in connection with the following agreements (in each case, as they incorporate the EMCC
Rules referred to below) (collectively, the "Agreements"):~~

- ~~_____ (i) _____ the Member's Agreement dated _____ (the "Member's Agreement")
between the Company and Emerging Markets Clearing Corporation ("EMCC"),
and~~
- ~~_____ (ii) _____ the Clearing Fund Agreement dated _____ (the "Clearing Fund
Agreement") between the Company and EMCC.~~

~~_____ In arriving at the opinions expressed below, we have examined and relied on the
following documents:~~

- ~~_____ (a) _____ a copy of the Member's Agreement as executed by the Company;~~
- ~~_____ (b) _____ a copy of the Clearing Fund Agreement as executed by the Company;~~
- ~~_____ (c) _____ a copy of the Rules of EMCC (the "EMCC Rules") in effect as of the date of
_____;~~

- ~~_____ (d) the [Articles][Certificate] of Incorporation of the Company and all amendments thereto (the "Charter");~~
- ~~_____ (e) the by-laws of the Company and all amendments thereto (the "By-laws"); and~~
- ~~_____ (f) a certificate of the Secretary of State of _____, dated _____, attesting to the continued corporate existence and good standing of the Company in that State.~~

~~_____ We have also examined and relied on the originals or copies certified or otherwise identified to our satisfaction of all such corporate records and such other instruments and other certificates of public officials, officers and representatives of the Company and such other persons, and have made such investigations of law, as we have deemed necessary and appropriate as a basis for the opinions expressed below.~~

~~_____ On the basis of and subject to the foregoing, and subject to the qualifications hereinafter set forth, it is our opinion that:~~

- ~~1. _____ The Company is a corporation duly organized, validly existing and in good standing under the laws of the State of **[fill in with appropriate State name]**. The Company has the corporate power to execute, deliver and perform (and to consummate the transactions contemplated by), has duly authorized the execution, delivery and performance of (and the consummation of the transactions contemplated by), and has duly executed and delivered the Agreements.~~
- ~~2. _____ The execution, delivery and performance by the Company of the Agreements and the consummation of the transactions contemplated thereby (a) do not contravene (i) the Charter or the By-laws, (ii) any law, rule or regulation applicable to the Company or (iii) any contractual or legal restriction; and (b) do not give rise to any lien, security interest, charge or encumbrance on, in or with respect to any of the Collateral other than in favor of EMCC pursuant to the Agreements.~~
- ~~3. _____ No authorization, approval or other action by, and no notice to or filing with, any regulatory authority or regulatory body or any third party is~~

required for the execution, delivery and performance by the Company of any of the Agreements [~~except for _____, _____, and _____, all of which have been duly obtained, taken, given or made and are in full force and effect~~].

4. ~~[Choose one of the following]~~

~~[Each of the Agreements is a legal, valid, binding and enforceable obligation of the Company, enforceable against the Company in accordance with its terms.]~~

~~_____ of~~

~~[In any action of proceeding arising out of or relating to the Agreements in any court of the State of _____ or in any federal court sitting in the State of _____, such court would recognize and give effect to the provisions of each Agreement wherein the parties thereto agree that such Agreement shall be governed by and construed in accordance with the law of the State of New York. Accordingly, to the extent that any Agreement is a legal, valid and binding obligation of the Company under the law of the State of New York, such Agreement would also be under the laws of the State of _____ a legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms.]~~

~~Further, if a court of the State of _____ or a federal court sitting in the State of _____ were to hold that any Agreement were governed by the law of the State of _____, such Agreement would be under the laws of the State of _____ a legal, valid and binding obligations of the Company, enforceable against the Company in accordance with its terms.]~~

~~_____ The opinions expressed in paragraph 4 above are subject, as to~~

~~_____ enforceability, to the effect of:~~

- ~~(a) any applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the creditors' rights generally²; and~~

~~²If the company is not a U.S. broker/dealer or an FDIC-insured national or state bank, substitute the following phrase for the phrase "the creditors' rights generally": (i) the rights of securities clearing agencies as creditors in transactions involving securities contracts (in the case of claims, actions~~

~~(b) — general principles of equity, including, without limitation, concepts of materiality, reasonableness, good faith and fair dealing (regardless of whether considered in a proceeding of equity or at law).~~

~~Our opinions expressed above are limited to the law of the State of _____, [the General Corporation Law of the Sate of Delaware] and the federal law of the United Sates of America.~~

~~We are furnishing this letter to you solely for your benefit as a party to the Agreements. Accordingly, without our prior written consent, you shall not be entitled to rely on this letter for any other purpose, and no other person or entity shall be entitled to rely on this letter for any purpose whatsoever.~~

Very truly yours,

[Firm Name]

By _____, a Partner]

* * *

~~or proceedings brought under such laws by or against the Company) and (ii) the rights of creditors (in any other case);~~

EXHIBIT B

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34- ; File No. SR-EMCC-2004-06)

Proposed rule change by EMERGING MARKETS CLEARING CORPORATION ("EMCC") will modify EMCC's Rule 2 (Members) and Addendum D (Opinion), Annexes 1 and 2, to clarify the form and substance of an Opinion of Counsel required to be provided to EMCC by applicants.

Comments requested within days after the date of this publication.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on , 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 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 text of the proposed rule change consists of revisions to Emerging Markets Clearing Corporation's ("EMCC" or the "Corporation") Rule 2 – Members and Addendum D – Opinion, Annexes 1 and 2 and is attached hereto as Exhibit A.

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.

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

(a) EMCC's Rule 2 section 2 (b) requires each applicant to become a Member to deliver to the Corporation an opinion of counsel. The rule also states that for domestic applicants the opinion should be substantially to the effect of the one set forth in Annex 2 to

Addendum D of EMCC's rules and for non-domestic applicants it must be substantially to the effect of the one set forth as Annex 1 to Addendum D. In each case the opinion has to be otherwise acceptable to EMCC. There has been some confusion about whether EMCC is required to obtain an opinion "in the form of" as opposed to "to the effect of" the ones annexed to Addendum D, and these documents do not clearly indicate whether an opinion may set forth a reservation or exception. To clarify this, EMCC is replacing both annexes with a document which sets forth the issues which an opinion must address (without specifying the form) and indicates those points to which EMCC could expect to see reservations or exceptions. The proposed rule change will make a corresponding clarifying change to Rule 2. Nevertheless, the rule will continue to provide that any opinion must still be acceptable to EMCC. Neither of these changes will impact what will continue to require from applicants but will eliminate the confusion over the form of the opinion which EMCC expects (and has) received.

Annex 1 will now provide that for domestic applicants the opinion will be required to:

6. Address whether the applicant is duly organized, validity existing and in good standing and the jurisdiction in which this applies.
7. Address whether the applicant has full power and authority to enter into the agreements.
8. Confirm that the execution, delivery and performance of the agreements are not in contravention of any authorizing document, rule or regulation or, to the extent that a blanket representation can not be given, an explanation of any limitations.
9. Confirm that no other authorizations or actions are required from any regulatory authority in connection with the execution, delivery and performance of the

agreements or specify those that are required to be obtained and the status of those actions.

10. Indicate that the agreements are legal, valid, binding and enforceable obligations against the company and any exceptions that need to be noted.

Annex 2 will now provide that for Non-domestic applicants the opinion will be required to:

12. Address whether the applicant is duly organized, validly existing and in good standing and the jurisdiction in which this applies.
13. Address whether the applicant has full power and authority to enter into the agreements.
14. Confirm that the agreements are legal, binding and enforceable and specify the jurisdiction in which this applies or confirm that the courts in that jurisdiction would give effect to the choice of New York Law as the governing law and any exceptions that need to be noted.
15. Confirm that submission to the jurisdiction of the federal and state courts in New York is enforceable in the jurisdiction referenced in point 3 and any exceptions which must be noted.
16. Explain how netting and novation are treated in the jurisdiction referenced in point 3 and how this would impact the obligations of the applicant.
17. Explain the extent to which a court in the jurisdiction referenced in point 3 would apply New York law to perfected security interests under the agreements.
18. Explain how insolvency, liquidation or other similar actions affecting creditor's rights impact the obligations of the applicant.
19. Confirm that the agreements will not conflict with or be impeded by the laws or regulations issued in the jurisdiction referenced in point 3 or explain any exceptions to this statement.
20. Explain the degree to which EMCC may initiate an action against the applicant in the jurisdiction referenced in point 3 without having to first obtain a judgment against the applicant in the United States.

21. Explain whether there are any restrictions or limitations on the applicant's ability to provide information or documents which may be requested pursuant to EMCC's rules.
22. Confirm that no other authorizations or actions are required from any regulatory authority in connection with the execution, delivery and performance of the agreements or specify those that are required to be obtained and the status of those actions.

(b) As the proposed rule change will clarify what is expected from applicants with regard to legal opinions, it will enable the Corporation to better enforce compliance with its rules and therefore is consistent with the requirements of the Securities Exchange Act of 1934, as amended (the "Act"), and the rules and regulations thereunder.

(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.

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Act and subparagraph (f)(4) of the Securities Exchange Act Rule 19b-4. At any time within

sixty days of the filing of such 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. 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 the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within days after the date of this publication.

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

authority.

Jonathan G. Katz

Secretary

Dated: