



[Release No. 34-95808; File No. SR-LCH SA-2022-005]

Self-Regulatory Organizations; LCH SA; Notice of Filing and Immediate Effectiveness of Proposed Rule Change, as Modified by Amendment No. 1, Relating to the CDSClear CCP Switch Programme

September 16, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder² notice is hereby given that on September 9, 2022, Banque Centrale de Compensation, which conducts business under the name LCH SA (“LCH SA”), filed with the Securities and Exchange Commission (“Commission”) the proposed rule change described in Items I, II, and III below, which Items have been prepared primarily by LCH SA. LCH SA filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act,³ and Rule 19b-4(f)(2)⁴ thereunder, so that the proposal was effective upon filing with the Commission. On September 14, 2022, LCH SA filed Amendment No. 1 to the proposed rule change.⁵ The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 1 (hereafter, the “proposed rule change change”), from interested persons.⁶

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(2).

⁵ In Amendment No. 1, LCH SA deleted a sentence from Item II.B that was not applicable to the filing.

⁶ References to the proposed rule change from this point forward refer to the proposed rule change as modified by Amendment No. 1.

I. Clearing Agency’s Statement of the Terms of Substance of the Proposed Rule Change

(a) LCH SA is proposing to offer an incentive fee programme to existing and new potential clearing member and clients of CDSClear service (the “**Proposed Rule Change**”).

The text of the Proposed Rule Change is in Exhibit 5 [sic].⁷

The implementation of the Proposed Rule Change will be contingent on LCH SA’s receipt of all necessary regulatory approvals.

(b) Not applicable.

(c) Not applicable.

II. Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, LCH SA 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. LCH SA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of these statements.

⁷ All capitalized terms not defined herein have the same definition as in the CDS Clearing Rule Book, Supplement or Procedures, as applicable.

A. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

Following an announcement made at the end of June by an alternate credit CCP that it would cease clearing all classes of CDS contracts by the end of March 2023,⁸ but also in light of the upcoming extension of CDSClear products, LCH SA CDSClear expects a number of clients and clearing members of alternate credit CCPs to choose to move their CDS portfolios to LCH SA CDSClear.

Within this context, the purpose of the Proposed Rule Change is for CDSClear to offer Clearing Members and clients acting through a Clearing Member, who have, directly or through a Clearing Member as applicable, signed up to the CCP Switch Programme⁹ as specified in Exhibit 5 [sic], the opportunity to move their cleared index and single name credit default swap (“CDS”) or Index Swaption transactions from alternate credit CCPs to LCH SA at no cost (the “**CCP Switch Programme**”).

As detailed in the CDSClear Circular attached as Exhibit 5 [sic] and also to be published on the LCH website, LCH SA CDSClear is proposing to implement the CCP Switch Programme that would be offered to all CDSClear Clearing Members and clients (the “**Switch Programme Participants**”) once effective.

The CCP Switch Programme will apply to all “Eligible Cleared Transactions” which include cleared transactions where there is no unlimited tariff available for the Switch Programme Participant or the cleared transaction would attract a non-zero clearing fee. This includes all CDS transactions for Select Members, but not Index Swaption transactions where an unlimited tariff is available. It includes all CDS

⁸ Circular C22/076 “*Cessation of clearing of CDS Contracts*” published by ICE Clear Europe on 30 June 2022 (C22076.pdf (theice.com))

⁹ Clearing Members and clients will be able to enter into the CCP Switch Programme by completing a written form.

transactions for clients of Clearing Members, but not Index Swaption transactions in 2022, where a full discount of client variable fees is being applied. It currently does not include any transactions for General Members. General Members have an unlimited tariff available for CDS apart from sovereign single names. Sovereign single names are subject to a full discount of clearing fees for General Members for 1 year from the go-live date. An unlimited tariff is available to General Members for Index Swaptions, which excludes these from being an Eligible Cleared Transaction also.

To assist Switch Programme Participants in efficiently closing positions at alternate credit CCPs and reopening the same positions at the LCH SA CDSClear service, LCH SA is proposing to allow Switch Programme Participants to complete these transactions for zero CCP clearing fees.

In order to facilitate this, LCH SA CDSClear would charge no clearing fees to enter into the Eligible Cleared Transaction on CDSClear, known as the “the CDSClear Transaction Leg”. Correspondingly, LCH SA would provide a Credit Note for the Assumed Cost of entering into the close out transaction at the alternate CDS CCP, known as the “Alternate CCP Transaction Leg.

The Credit Note would be applied to all non-CCP Switch Eligible Cleared Transactions of a Switch Programme Participant for a period of six (6) months beginning at the “Programme Entry Date”, mentioned in the relevant Switch Programme registration form provided to LCH SA. This will effectively make the CCP Switch free of any clearing fees at either CCP. At the end of the six months period, any unused portion of the Credit Note would be forfeited.

Fees for both the CCP Switch and any transactions which would have the Credit Note applied would be charged as normal, then rebated at the end of each month.

(b) Statutory Basis

Section 17A(b)(3)(D) of the Act requires that the rules of a clearing agency provide for the equitable allocation of reasonable dues, fees, and other charges.¹⁰

LCH SA believes that its clearing fee change proposal is consistent with the requirements of Section 17A of the Act¹¹ and the regulations thereunder applicable to it, and in particular provides for the equitable allocation of reasonable fees, dues, and other charges among clearing members and market participants by ensuring that clearing members and clients pay reasonable fees and dues for the services provided by LCH SA, within the meaning of Section 17A(b)(3)(D) of the Act.¹²

Indeed, there is no change on the tariffs on which LCH SA CDSClear has existing activity (i.e. Corporates and Financials Index and Single Names, General Members Unlimited and Introductory tariffs for Index Options). Rather the Proposed Rule Change provides for a fee rebate to Switch Programme Participants who choose to switch CDS positions from an alternate CCP to the LCH SA CDSClear service, effectively allowing these switch transactions to have no cost impact to Switch Programme Participants. Additionally, in no case will the Proposed Rule Change cause an increase to any fees charged by LCH SA. As such, LCH SA believes that the Proposed Rule Change consistent with Section 17A(b)(3)(D) and is designed to offer Clearing Members and clients with cleared CDS and Index Swaption positions, especially those that may become ineligible to remain at their current CCP, the ability to move their positions to LCH SA free of charge. LCH SA does not plan to offer the CCP Switch Programme for

¹⁰ 15 U.S.C. 78q-1(b)(3)(D).

¹¹ 15 U.S.C. 78q-1.

¹² 15 U.S.C. 78q-1(b)(3)(D).

cleared transactions where there is an unlimited tariff available to Switch Programme Participants or where cleared transactions would not attract a fee.

For all the reasons stated above, LCH SA believes that the proposed changes to the LCH SA fee grid are reasonable and appropriate.

B. Clearing Agency's Statement on Burden on Competition.

Section 17A(b)(3)(I) of the Act requires that the rules of a clearing agency not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.¹³

LCH SA does not believe that the Proposed Rule Change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because the CCP Switch Programme is meant to facilitate competition and movement between CCPs by accommodating such positions transfers and reducing the barrier potentially created by high fees associated with transferring corresponding positions between clearing houses. LCH SA is offering the possibility for all CDSClear Clearing Members and clients to utilize the CCP Switch Programme without prejudice and on identical terms. The Proposed Rule Change would not affect the ability of Clearing Members or other market participants generally to engage in cleared transactions or to access clearing services.

Additionally, the clearing fee conditions remain transparent and equally applicable to any eligible participant wishing to access the CDSClear clearing service including those transactions that are not mandatory for clearing.

C. Clearing Agency's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

¹³ 15 U.S.C. 78q-1(b)(3)(I).

Written comments relating to the proposed rule change have not been solicited or received. LCH SA will notify the Commission of any written comments received by LCH SA.

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

The foregoing proposed rule change has become effective upon filing pursuant to Section 19(b)(3)(A)¹⁴ of the Act and Rule 19b-4(f)(2)¹⁵ thereunder because it establishes a fee or other charge imposed by LCH SA on its Clearing Members. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such proposed 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, 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. Please include File Number SR-LCH SA-2022-005 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

¹⁴ 15 U.S.C. 78s(b)(3)(A).

¹⁵ 17 CFR 240.19b-4(f)(2).

All submissions should refer to File Number SR-LCH SA-2022-005. 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 website (<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 website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 am and 3:00 pm. Copies of the filing also will be available for inspection and copying at the principal office of LCH SA and on LCH SA's website at:

<https://www.lch.com/resources/rulebooks/proposed-rule-changes>. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-LCH SA-2022-005 and should be submitted on or before **[INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁶

J. Matthew DeLesDernier,

¹⁶ 17 CFR 200.30-3(a)(12).

Deputy Secretary.

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