



SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-102955; File No. SR-LCH SA-2025-005]

Self-Regulatory Organizations; LCH SA; Notice of Filing of Proposed Rule Change Relating to Revisions to its Rule Book and FCM/BD Regulations related to Clearing Member Testing Requirements.

April 29, 2025.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4,² notice is hereby given that on April 17, 2025, 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 (“**Proposed Rule Change**”), as described in Items I, II and III below, which Items have been prepared primarily by the clearing agency. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

LCH SA is proposing to amend its CDS Clearing Rule Book (“**Rule Book**”) and FCM/BD CDS Clearing Regulations (“**FCM/BD Regulations**”) to: (i) provide that each Clearing Member must participate in the testing of LCH SA's business continuity and disaster recovery (“**BCDR**”) plans and LCH SA’s recovery and orderly wind-down (“**RWD**”) plans pursuant to Exchange Act Rule 1004 (“**Reg SCI**”)³ and Exchange Act Rule 17ad-26(a)(8)(i)⁴ and (ii) incorporate the margin adequacy requirements pursuant to

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 242.1004.

⁴ 17 CFR 240.17ad-26(a)(8)(i).

Commodity Exchange Act (“CEA”) Rule 1.44⁵ (the “**Proposed Rule Change**”).⁶ The text of the Proposed Rule Change is provided 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.

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 such statements.

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

1. Purpose

LCH SA is proposing to amend the Rule Book⁸ to provide that each Clearing Member must participate in testing of LCH SA's BCDR plans and RWD plans as LCH SA may reasonably require in order to comply with its regulatory obligations pursuant to Reg SCI⁹ and Exchange Act Rule 17ad-26(a)(8)(i)¹⁰. In addition, LCH SA is also proposing to revise Regulation 6 of the FCM/BD CDS Clearing Regulations¹¹ by adding

⁵ 17 CFR 1.44.

⁶ All capitalized terms not defined herein have the same meaning as in the Rule Book in its version as available on LCH SA's website: <https://www.lseg.com/en/post-trade/clearing/clearing-resources/rulebooks/lch-sa#t-over-the-counter-credit-default-swaps>.

⁷ All capitalized terms not defined herein have the same definition as in the Framework, unless otherwise stated.

⁸ LCH SA’s CDS Clearing Rule Book can be found on LCH SA’s public website: https://www.lseg.com/content/dam/post-trade/en_us/documents/lch/rulebooks/lch-sa/lch-sa-cdsclear-rule-book-12162024.pdf.

⁹ 17 CFR 242.1004.

¹⁰ 17 CFR 240.17ad-26(a)(8)(i).

¹¹ LCH SA’s FCM/BD CDS Clearing Regulations can be found on LCH SA’s public website: https://www.lseg.com/content/dam/post-trade/en_us/documents/lch/rulebooks/lch-sa/lch-sa-cdsclear-fcm-bd-cds-regulations.pdf.

provisions on the treatment of separate accounts by FCM/BDs pursuant to CEA Rule 1.44¹².

LCH SA currently engages select participants to assist with functional and performance testing of its SCI systems as part of its overall BCDR program. To ensure it has the authority to designate select participants to engage in BCDR testing, LCH SA is proposing to specify in its Rule Book the authority to designate participants to assist with BCDR testing in accordance with its regulatory obligations under Reg SCI¹³ and to ensure it can maintain fair and orderly markets in the event such BCDR plans are activated. Separately, LCH SA is proposing to update its Rule Book to clarify that Clearing Members will be required to participate in the testing of its RWD plans if designated to do so. Under the SEC's final rule regarding RWD¹⁴, LCH SA is required to have the authority to designate its Clearing Members and other stakeholders (e.g., Settlement Banks) to participate in testing its RWD plans. This requirement will be in addition to its authority to designate Clearing Members to participate in default management testing and will be performed by LCH SA at least once every 12 months.¹⁵

1. Expansion of Participation Requirement for BCDR and RWD plans Testing

¹² 17 CFR 1.44.

¹³ 17 CFR 242.1004.

¹⁴ 17 CFR 240.17ad-26(a)(8)(i).

¹⁵ LCH SA maintains a CDS Default Management Committee comprising representatives nominated by Clearing Members and appointed by LCH SA (with oversight provided by the LCH SA Risk Committee). Among other responsibilities, the CDS Default Management Committee reviews the CDS Default Management Process and the CDS Default Management Guidance Manual and assists LCH SA in the design, testing and further improvement of the CDS Default Management Process, including by participating in regular fire drills (default management tests) in relation to the CDS Default Management Process. Section 2.2.8.1. of the Rule Book further provides that as a condition to membership, members, including Select Members that choose to nominate a member to LCH SA's Default Management Group pursuant to Article 2.2.0.4. of LCH SA's Rule Book ("Select Members opting in"), are required to participate in technical and operational tests to ensure the continuity and orderly functioning of the CDS Clearing Service. As members, including Select Members opting in are required to nominate representatives to participate in the CDS Default Management Committee, participation in fire drills is therefore a condition of membership. Please also see Section 10.2 of LCH SA's Rule Book.

LCH SA proposes to amend Article 2.2.8.1 of the Rule Book to provide that each Clearing Member must participate in functional and performance testing of the operation of LCH SA's BCDR plans and LCH SA's RWD plans, in the manner and frequency specified by LCH SA, as LCH SA may reasonably require to comply with its applicable regulatory obligations, on one month's notice via member notification sent by email. This proposed new requirement would be in addition to existing Clearing Member participation requirements in any other technical and operational tests, reasonably organized at the discretion of LCH SA, in order to ensure the continuity and orderly functioning of LCH SA's CDS Clearing Service. Specifically, LCH SA may already designate Clearing Members to participate in default management testing as a condition of membership pursuant to its Rule Book and now proposes to separately clarify that pursuant to revised Article 2.2.8.1 of the Rule Book, Clearing Members must also participate in BCDR testing and its RWD plans.¹⁶ Under the Proposed Rule Change and similar to its authority for the purposes of conducting default management testing, LCH SA will have the authority to designate Clearing Members to participate in scheduled operational and performance testing of the operation of LCH SA's BCDR and RWD plans. To effectuate this change, LCH SA is proposing to add new sub-paragraph (ii) to Article 2.2.8.1 to specify each Clearing Member must participate in BCDR and RWD testing, as determined by LCH SA, provided Clearing Members are at least notified by email one month in advance of such testing. LCH SA will continue to require Clearing Members participate in other technical and operational tests, including for purposes of default management, and will clarify this existing requirement in sub-paragraph (i) of Article 2.2.8.1.

¹⁶ Please see Note [15] regarding the role of the CDS Default Management Committee and the requirements for Clearing Member participation in fire drills.

2. *Treatment of Separate Accounts by FCM/BDs*

LCH SA proposes to amend Regulation 6 of the FCM/BD Regulations for the purposes of taking into account the recent adoption of CEA Rule 1.44¹⁷ in respect of the margin treatment of separate accounts by FCM/BDs by adding a new paragraph (f) related to the withdrawal of Cleared Swaps Customer Funds and in accordance with Article 6.2.6.2 of the CDS Clearing Rule Book, each FCM/BD Clearing Member shall ensure that no Cleared Swaps Customer withdraws Cleared Swaps Customer Collateral from its Cleared Swaps Customer Account (as such terms are defined in CEA Rule 22.1¹⁸) with the FCM/BD Clearing Member unless the “net liquidating value” (as such term is used in Part 39 of the CFTC Regulations¹⁹) plus the funds attributable to such Cleared Swap Customer remaining in such Cleared Swaps Customer Account after such withdrawal is sufficient to meet the amount of Collateral as required by LCH SA in accordance with Article 6.2.6.1 of the CDS Clearing Rule Book in respect of all FCM/BD Cleared Transactions entered into on behalf of that Cleared Swap Customer. At the end of this new paragraph (f), LCH SA also proposes to specify that references to “Cleared Swaps Customer Account” shall include all Cleared Swaps Customer Accounts for which the Cleared Swaps Customer is the beneficial owner, except for any Cleared Swaps Customer with multiple such accounts for which the FCM/BD Clearing Member has made the separate accounts election pursuant to new CEA Rule 1.44(d)²⁰ and provided further that the FCM/BD complies with the requirements of CEA Rule 1.44²¹.

¹⁷ Id.

¹⁸ 17 CFR 22.1.

¹⁹ *See* 17 CFR 39.13(g)(8)(iii).

²⁰ 17 CFR 1.44(d).

²¹ Id.

LCH SA is proposing this amendment following the CFTC’s adoption of new Rule 1.44²², which allows FCMs to treat separate accounts of a single beneficial owner as accounts of different legal entities for purposes of the CFTC’s margin adequacy requirements. As amended, Rule 1.44 codifies the CFTC’s no-action position in CFTC Letter No. 19-17 dated July 10, 2019 (and subsequent extensions thereto) (the “**Letter**”)²³, and as a result, LCH SA will remove the references to this CFTC Letter from paragraph (e) of Regulation 6 of the FCM/BD Regulations because Rule 1.44 now supersedes the requirements specified in the Letter. The paragraphs of Regulation 6 following the new paragraph (f) will be renumbered and any cross-reference to paragraphs (f) *et seq.* of Regulation 6 will be also updated in the FCM/BD Regulations.

²² 17 CFR 1.44.

²³ CFTC Letter No. 19-17, Advisory and Time-Limited No-Action Relief with Respect to the Treatment of Separate Accounts by Futures Commission Merchants (July 10, 2019).

2. Statutory Basis

LCH SA believes that the Proposed Rule Change is consistent with the requirements of Section 17A of the Exchange Act²⁴ and the regulations thereunder, including the standards under Exchange Act Rule 17Ad-22.²⁵ Exchange Act Section 17A(b)(3)(A)²⁶ requires, among other things, that a clearing agency must have the capacity to be able to facilitate the prompt and accurate clearance and settlement of securities transactions and derivative agreements, contracts, and transactions for which it is responsible, to safeguard securities and funds in its custody or control or for which it is responsible, and to comply with the Exchange Act and the rules and regulations thereunder. Exchange Act Section 17A(d)(1) provides that a clearing agency shall not engage, directly or indirectly, in any activity as clearing agency in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Exchange Act.²⁷ Further, Exchange Act Section 17A(b)(4)(B) provides, in part, that a registered clearing agency may deny participation to, or condition the participation of, any person if such person does not meet such standards of financial responsibility, operational capability, experience, and competence as are prescribed by the rules of the clearing agency.²⁸

Exchange Act Rule 17Ad-22 provides that a clearing agency must establish, implement, maintain, and enforce written policies and procedures reasonably designed to, among other things, manage the covered clearing agency's operational risks by establishing and maintaining a business continuity plan that addresses events posing a

²⁴ 15 U.S.C. 78q-1.

²⁵ 17 CFR 240.17ad-22.

²⁶ 15 U.S.C. 78q-1(b)(3)(A).

²⁷ 15 U.S.C. 78q-1(d)(1).

²⁸ 15 U.S.C. 78q-1(b)(4)(B).

significant risk of disrupting operations.²⁹ In addition, Reg SCI provides that a clearing agency (an SCI entity) must establish, maintain, and enforce written policies and procedures reasonably designed to ensure that its SCI systems and indirect SCI systems, have levels of capacity, integrity, resiliency, availability, and security, adequate to maintain the SCI entity's operational capability and promote the maintenance of fair and orderly markets.³⁰ Such policies and procedures must include business continuity and disaster recovery plans that include maintaining backup and recovery capabilities sufficiently resilient and geographically diverse and that are reasonably designed to achieve next business day resumption of trading and two-hour resumption of critical SCI systems following a wide-scale disruption.³¹ Reg SCI also provides that LCH SA, as an SCI entity, must have the authority to designate members or participants to participate in the scheduled functional and performance testing of the operation of such [BCDR] plans, in the manner and frequency specified by LCH SA, provided that such frequency shall not be less than once every 12 months.³²

Finally, Exchange Act Rule 17ad-22 requires LCH SA to establish, implement, maintain and enforce written policies and procedures reasonably designed to maintain a sound risk management framework for comprehensively managing legal, credit, liquidity, operational, general business, investment, custody, and other risks that arise in or are borne by LCH SA, which must include plans for the recovery and orderly wind-down of LCH SA necessitated by credit losses, liquidity shortfalls, losses from general business risk, or any other losses.³³ To ensure LCH SA can facilitate the successful execution of its RWD plans in the event it is required to do so, Exchange Act Rule 17ad-26 requires

²⁹ 17 CFR 240.17ad-22(e)(17)(iii).

³⁰ 17 CFR 242.1001(a)(1).

³¹ 17 CFR 242.1001(a)(2)(v).

³² 17 CFR 242.1004(b).

³³ 17 CFR 240.17ad-22(e)(3)(ii).

LCH SA to have the authority to require its participants and, when practicable, other stakeholders to participate in the testing of its RWD plans.³⁴

LCH SA believes the Proposed Rule Change is consistent with the provisions of Section 17A of the Exchange Act³⁵ and Commission regulations thereunder referenced above, as it would clarify LCH SA's authority to designate participants to assist in the testing of its BCDR plans and RWD plans, as required by Exchange Act Rule 17ad-22³⁶ and Reg SCI³⁷ and Exchange Act Rule 17ad-26³⁸. In addition, LCH SA believes the Proposed Rule Change is consistent with Section 17A of the Exchange Act³⁹ in that it would protect investors by supporting LCH SA's preparedness for a potential default, material system outage or implementation of its recovery and wind-down tools should it need to do so to maintain market stability. LCH SA believes that requiring such participation as a condition of membership is reasonable for the broader protection of the market and is consistent with Section 17A of the Exchange Act⁴⁰.

Specifically, LCH SA is proposing to clarify to participants and other stakeholders that, as a requirement to membership and to ensure LCH SA can successfully execute its BCDR plans and RWD plans in the event such plans are activated, LCH SA shall designate such participants and other stakeholders to assist in testing of such plans as required by its regulatory obligations. This change would complement LCH SA's ability to manage its operational risk, as the BCDR testing requirement would provide LCH SA with valuable information to inform and enhance its BCDR program.

³⁴ 17 CFR 240.17ad-26(a)(8)(i).

³⁵ 15 U.S.C. 78q-1.

³⁶ 17 CFR 240.17ad-22(e)(17)(iii) and 17 CFR 242.1004(b).

³⁷ 17 CFR 242.1004(b).

³⁸ 17 CFR 240.17ad-26(a)(8)(i).

³⁹ 15 U.S.C. 78q-1.

⁴⁰ Id.

Likewise, this change would complement LCH SA's risk management framework, as RWD plan testing would be in addition to default management testing and would include additional informative scenarios that would trigger the execution of LCH SA's recovery tools or if such tools are exhausted, the initiation of an orderly wind-down. The results of RWD plan testing would complement lessons learned from default management testing and would ensure LCH SA is prepared to manage a recovery and/or wind-down of its core services.

Taken together, LCH SA believes that clarifying its requirements for participant and other stakeholder testing of its BCDR plans and RWD plans is consistent with Section 17A of the Exchange Act, Rules 17ad-22⁴¹ and 17ad-26⁴² thereunder, and Reg SCI⁴³. As part of this Proposed Rule Change, LCH SA is also seeking to revise Regulation 6 of the FCM/BD Regulations by adding provisions on the treatment of separate accounts by FCM/BDs pursuant to CEA Rule 1.44⁴⁴. This would not be a change to LCH SA's current operations and would only clarify the CFTC's new rule.

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.⁴⁵ LCH SA does not believe the Proposed Rule Change would have any impact, or impose any burden, on competition. The Proposed Rule Change does not address any competitive issue or have any impact on the competition among central counterparties. LCH SA operates an open access model, and the Proposed Rule Change will have no effect on this model.

⁴¹ 17 CFR 240.17ad-22(e)(3)(ii) and 17 CFR 240.17ad-22(e)(17)(iii).

⁴² 17 CFR 240.17ad-26(a)(8)(i).

⁴³ 17 CFR 242.1004(b).

⁴⁴ 17 CFR 1.44.

⁴⁵ 15 U.S.C. 78q-1(b)(3)(I).

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

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

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period up to 90 days (i) as the Commission may designate 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 or disapprove such proposed rule change, or

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

Electronic Comments:

- Use the Commission's internet comment form (<https://www.sec.gov/rules-regulations/self-regulatory-organization-rulemaking>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-LCH SA-2025-005 on the subject line.

Paper Comments:

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

All submissions should refer to file number SR-LCH SA-2025-005. This file number should be included on the subject line if email 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 (<https://www.sec.gov/rules-regulations/self-regulatory-organization-rulemaking>). 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 am and 3 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>. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted materials that is obscene or subject to copyright protection. All submissions should refer to file number SR-LCH SA-2025-005 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.⁴⁶

Sherry R. Haywood,

Assistant Secretary.

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⁴⁶ 17 CFR 200.30-3(a)(12).