

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-100169; File No. SR-LCH SA-2024-003)

May 17, 2024

Self-Regulatory Organizations; LCH SA; Notice of Filing of Proposed Rule Change  
Relating to the Terms of Reference of the Board and Sub Committees

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“**Act**”)<sup>1</sup>, and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on May 6, 2024, 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 primarily prepared by LCH SA. 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 certain of its governance documents, including the Terms of Reference (“**ToR**”) of: (a) the Technology, Security and Resilience Committee; (b) the Audit Committee; (c) the Risk Committee; and (d) the Board of Directors (“**Board**”). Minor conforming amendments will also be made to the ToR of the Nomination Committee of the Board (collectively, the “**Proposed Rule Change**”).

**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

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

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

1. Purpose

The Proposed Rule Change is being adopted primarily in response to a request from its French regulatory authority, the Autorité de Contrôle Prudentiel et de Résolution (“**ACPR**”), that LCH SA: (a) more clearly define the role of the Technology, Security and Resilience Committee by focusing its areas of expertise on technical subjects related to information systems, technology and cyber security; (b) more clearly define the role of the Audit Committee in areas relating to operational and resilience risk management; and (c) strengthen the Risk Committee’s supervision of certain information technology and resilience risk matters. The ToR of the Board is also being amended as part of the Proposed Rule Change, to remove the requirement to translate minutes into French prior to Board meetings and to clarify that the Board is responsible for approving the Wind-Down Plan (“**WDP**”). Other changes are being made to conform the ToRs with LCH Group terminology, including replacing the term “Chairman” throughout the ToR of the Technology, Security and Resilience Committee, the Audit Committee and the Risk Committee with the term “Chair”, clarifying that “Group” means “LCH Group” in the ToR of the Technology Security and Resilience Committee (renamed Operational Resilience Committee, as discussed below) (article 5.1) and the Risk Committee (articles 1.1 and 2.5), and replacing the term “Group” with “LCH” in articles 14.1 and 16.4 of the Risk Committee ToR. LCH SA is also making a number of non-substantive clarifying

changes to the various documents included as an Exhibit 5 to this filing. Importantly, there will be no change in the proportion of independent directors<sup>3</sup> or the number of directors representing members and participants.

**i. *The Technology, Security and Resilience Committee***

The Technology, Security and Resilience Committee has been renamed the Operational Resilience Committee. In addition, Articles 15 and 20 of the ToR of the Board and Section 3.3.8 of the ToR of the Audit Committee have been amended to reflect this change in the name of the Operational Resilience Committee. This change has been made to better clarify the scope of the committee's responsibility. As noted above, the committee will focus its areas of expertise on technical subjects related to information systems, technology and cyber security.

To effect this change in focus, Section 1.2 of Article 1, Purpose, will be amended by replacing reference to “technical, security, operational resilience and cyber risks” with “operational resilience” to reflect that the committee shall determine whether management has put in place adequate strategies and plans, which include appropriate management of operational resilience. Section 1.1. will also be amended to state that the Committee shall represent the interests of the Board in the sound management of Operational Resilience to ensure that technology security, cyber security and operational resilience strategies, investments and outcomes support the mission, values, and strategic goals of LCH SA. Section 1.2 will also be amended to clarify that the committee will provide assurance that the company operates within the risk appetite “set by the Board”,

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<sup>3</sup> The ToR of the LCH SA Board defines an independent director as a director who satisfies applicable Regulatory Requirements, *i.e.*, any regulation or requirement of applicable law or of any applicable regulatory body, regarding independent directors, and who is appointed in accordance with the Nomination Committee ToR.

as per current practice, the Board is responsible for setting the risk appetite. Finally, Section 1.2 will be amended by adding a new sentence stating the committee will receive a regular assessment of operational resilience risks to reflect current practice.

Article 1 of the ToR, Purpose, will also be amended by adding a new Article 1.3 to describe how the committee will contribute to the review of certain operational resilience policies. The proposed rule change is adding this because the committee will be the forum for discussion on resilience risk matters and will be the advisor to the Risk Committee with regard to these matters. For the purposes of this addition of Article 1.3, “resilience risk,” “operational resilience” and “operational resilience risk” all pertain to operational resilience risk matters for which the committee will be the forum for discussion.<sup>4</sup> Furthermore, Article 1.3 will specify that the committee will review, prior to presentation to the Risk Committee for review and recommendation to the Board, the following Operational Resilience policies: (a) Technology Risk; (b) Business Continuity Risk; (c) Information Security and Cyber Risk; (d) Operational Risk; (e) Third Party (Outsourcing) Risk; and (f) Physical Security Risk. Article 1.3 also provides that the committee will be notified by the owner of the policies of any breaches or waivers.

Further, a new Article 1.4.4 will be added to provide that the committee will also review LCH SA’s ongoing outsourcing and third-party risk management arrangements because these arrangements fall under the ambit of the Operational Resilience Committee

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<sup>4</sup> As stated in the Risk Governance Framework (“RGF”), the operational resilience risks are the risks associated with the ability of LCH to prevent, adapt, respond to, recover and learn from operational disruptions. This includes risks associated with maintaining the security of LCH from a cyber and a physical perspective, Data Management and Third-Party Risks as well as resilient Operational Processes.

as redefined.<sup>5</sup> Finally, renumbered Article 1.5 will be amended to provide that the committee must keep itself informed of changes in guidance from London Stock Exchange Group as well as from LCH Group. This amendment reflects the current required practice that the committee keep informed of changes in guidance from both LCH Group and London Stock Exchange Group.

Consistent with the committee’s responsibility to focus its areas of expertise on technical subjects related to information systems, technology and cyber security, Article 2 of the ToR, Structure and Membership, will be amended to revise Article 2.1.2 to provide that members of the committee must have the relevant expertise required for the committee to function properly as well as recent and relevant experience in the operations of LCH Group. Article 2.1.2 currently only provides that members of the committee “shall ideally have significant, recent and relevant experience of the operations of LCH and its dependence on technology[.]”. Article 2.1.3 will also be revised to specify that, as considered appropriate by the committee, experts in information technology, security, resilience matters and more generally on operational resilience matters may attend committee meetings in a non-voting capacity.

Article 4 of the ToR, Authority and Responsibilities, will be amended to remove current Article 4.2.10, which provides that the committee will review and receive reports, as appropriate, on operations and agreed metrics in conjunction with the Audit Committee, in order to avoid any duplication and overlap with the Audit Committee. In addition, current Article 4.2.10 is redundant with Article 4.2.9 with respect to the

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<sup>5</sup> The remaining provisions in Article 1 will be renumbered to accommodate these additions. Technical amendments have also been made throughout the Operational Resilience Terms of Reference to reflect the change in the name of the committee and its revised focus.

committee’s responsibility to receive reports from the Audit Committee with respect to reviews and assessment of LCH SA’s operations and technology functions. Furthermore, LCH SA determined there is no equivalent provision to current Article 4.2.10 in the Audit Committee TOR. In the event of audit findings in the area of operational resilience, the committee would likely monitor progress against these actions noting that the Chair of the committee is also a member of the Risk Committee. Current Article 4.2.11 will be renumbered to new Article 4.2.10 and revised to state the committee will review and receive reports “in relation to ongoing” technology outsourcing. LCH SA is proposing to remove reference to “on” to clarify the types of reports the committee receives. Moreover, new Articles 4.2.13, 4.2.14 and 4.2.15 will be added to reflect the current practices comprising the committee’s overall mandate for the review of operational resilience matters.<sup>6</sup> Specifically:

- Article 4.2.13 will confirm the committee’s responsibility to provide advice to the Risk Committee on specific operational resilience risk-related matters as deemed appropriate, including in cases of potential member impact;
- Article 4.2.14 will provide that the committee will be responsible for reviewing or recommending for approval to the Risk Committee, Detailed Operational Risk Assessments (“**DORA**”)<sup>7</sup> with significant elements relating to Technology, Cyber

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<sup>6</sup> The remaining provisions in Article 4.2 will be renumbered to accommodate these additions.

<sup>7</sup> DORAs are produced by the relevant business/function (first line of defense) and reviewed by the LCH Group Risk Function (second line of defense). The assessment is required ahead of implementing new product initiatives, strategic projects or significant changes presenting operational risks that are novel or could have the potential to impact the current operational risk appetite assessment or platform resiliency.

or other Operational Resilience, in accordance with the Operational Risk Policy;<sup>8</sup>  
and

- Article 4.2.15 will provide that the committee will receive reports of Operational Risk Assessments related to cloud initiatives sent by the applicable risk team.

In addition, Article 4.4 of the ToR will be amended to provide that the Chair of the committee will be a standing member of the Risk Committee as well as the Audit Committee. Current Article 4.4 provides that the Chair of the committee will be a standing member of the Audit Committee but not the Risk Committee. Rather, the Chair of the committee may be invited to attend meetings of the Risk Committee only in a non-voting capacity. This change is being made to enhance the role of the committee as an advisor to the Risk Committee.<sup>9</sup>

Finally, Article 7.3 of the ToR, which provides that the committee may report any disagreements between the committee and the Board that cannot be resolved at the Board level to the shareholders through LCH SA's annual report, will be removed. The Board determined that this Article is applicable only to the Audit Committee ToR.

## **ii. *The Audit Committee***

Consistent with the amendments to the Operational Resilience Committee ToR described above, the Audit Committee ToR will be amended to define more clearly the responsibilities of the Audit Committee. In this regard, Article 1 of the ToR, Purpose, will be amended as follows:

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<sup>8</sup> Annex E of the Operational Risk Policy provides that the committee will recommend the DORA to the Risk Committee for its approval, after which the Board will be notified. As discussed below, Article 11.3 of the Risk Committee ToR will also be amended to note this point.

<sup>9</sup> Consistent with the amendment to Article 4.4, a new Article 1.1.2 of the Risk Committee ToR will be added to provide that one of the independent non-executive directors of the Risk Committee must be the Chair of the Operational Resilience Committee.

- Article 1.3.5 will be revised to provide that the committee will assist the Board in fulfilling its responsibilities relating to reviewing LCH SA's Resilience and Enterprise Risk Management reports. The Enterprise Risk Management reports are currently provided to the committee and have since been enhanced to provide additional detail for the committee to review as part of its responsibility to assist the Board in fulfilling its responsibilities;
- Article 1.3.6 will be revised to remove the committee's current responsibility to review Resilience Risk matters, since this activity is now the responsibility of the Operational Resilience Committee. The committee will retain responsibility of reviewing LCH SA's internal control environment;
- Article 1.4 will be revised to clarify that the committee shall keep informed of changes in the law and regulations applicable to the specific matters for which the committee is responsible. Specific reference to the Audit Policy is being removed, as the committee's responsibility to keep information of changes in the law and regulations applicable to the specific matters for which the committee is responsible includes the Audit Policy; and
- Article 1.5 will be revised to provide that nothing in the ToR will diminish the responsibility of the Board to maintain ongoing review of the matters described in the ToR rather than LCH SA's audit policy more broadly. As noted in the changes to Article 1.4, the Board's responsibility to maintain ongoing review of the matters listed in Article 1 includes the Audit Policy.

- Article 2.3.2 will be removed to align with Article 2.2.2 of the ToR of the Audit Committee for LCH Ltd. because that article already specifies that the same person can be the chair of both committees.

In addition, Article 3 of the ToR, Authority and Responsibilities, will be amended as follows:

- A new Article 3.3.4(a) will be added to provide that the committee will approve the Compliance policies and be informed of any breaches. This addition reflects an existing process by the committee and is being added for transparency;<sup>10</sup>
- Current Article 3.3.4(e), which requires the committee to review the performance of LCH SA's Chief Compliance Officer will be removed, because this responsibility is now assumed by the Remuneration Committee;
- Article 3.3.5(b) will be revised to add that the committee will be notified of outside appetite financial and resilience risks in addition to reviewing breaches of LCH SA's Risk Governance Framework. This addition will provide greater transparency to the committee regarding outside appetite financial and resilience risks;
- Article 3.3.6(a)(iii) will be revised to remove the requirement that the committee receive annually reports required by Articles 258 to 266 of the Order of 3 November 2014 on the internal control of banking sector companies, payment services and investment services and will require, instead, that the committee receive annually reports as required by law from time to time. This revision

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<sup>10</sup> The remaining provisions in Article 3.3.4 will be renumbered to accommodate these additions.

ensures the committee receives reports as required by all applicable laws and regulations, rather than a subset; and

- Current Article 3.3.6(a)(iv), requiring the committee to review at least annually the provisions for business continuity and disaster recovery and the assessment of the effectiveness of the arrangements in place will be removed, since this activity is now the responsibility of the Operational Resilience Committee and is reflected in the Operational Resilience Committee ToR as a recurrent responsibility, as required under EMIR.<sup>11</sup>

### **iii. *The Risk Committee***

As noted above, the ToR of the Risk Committee will be amended to strengthen the committee's supervision of certain information technology and resilience risk matters. Other amendments are intended to conform the Risk Committee ToR to LCH Group requirements. In this latter regard, Article 1 of the ToR, Composition, will be amended (a) to add a new Article 1.1.2 to provide that one of the non-executive directors of the Risk Committee must be the Chair of the Operational Resilience Committee, (b) to revise the proviso to Article 1.1 to clarify that no User or Client representative of the Risk Committee may be an employee of LCH Group or its subsidiaries and (c) to add operational risk management as one of the areas of expertise and experience in Article 1.1.3 with respect to Users, as such term is defined in the committee ToR. In addition, the term "Group" is being replaced by "LCH" in Articles 14.1 and 16.4 to clarify the entity being referred to.

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<sup>11</sup> In addition, Article 2.3, Committee Chair, will be amended to remove Article 2.3.2, which provides that the Chair may also be appointed the Chair of the Audit Committee of LCH Limited. This change is being made to conform the Audit Committee ToR to LCH Group requirements.

In addition, Article 1.2 of the ToR, which identifies the individuals who may be invited to attend committee meetings in a non-voting capacity, will be amended to: (a) remove Article 1.2.4, which provides that the Chief Risk Officer of LCH Group may attend committee meetings, because that position has been retired;<sup>12</sup> (b) remove Article 1.2.5, which provides that the Chief Executive Officer of LCH Group may attend committee meetings, because the Chief Executive Officer of LCH SA is already listed as the appropriate ex officio non-voting party under Article 1.2.2; (c) revise renumbered Article 1.2.4 to provide that LSEG’s Chief Risk Officer (or nominee) may attend committee meetings, so as to ensure that the Risk Committee has appropriate oversight of all risks pursuant to the committee’s ToR; and (d) revise renumbered Article 1.2.6 to provide that such other employees of LCH SA, rather than LCH Group, may attend committee meetings, as considered appropriate by the Committee Chair. This revision reflects that LCH SA employees will likely have the relevant background and expertise to participate in meetings for which LCH SA risk matters are discussed. LCH SA is also clarifying that the Committee Chair rather than the entire Committee shall determine the appropriateness of including LCH SA employees in attendance, considering LCH SA employees will only attend from time to time at a given meeting in a non-voting capacity for a particular agenda item(s) which may be relevant to them.

Where expertise other than the specialty of external members is required, Article 1.6 of the ToR currently permits external members of the Risk Committee to consult

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<sup>12</sup> Because the LCH Group Chief Risk Officer position has been retired, Article 2 of the ToR of the Nomination Committee, Board, will be revised to amend Article 2.3 to provide that the term “Executive Directors” will no longer include the Chief Risk Officer of LCH Group. The Chief Risk Officer of LSEG, or such other LCH or LSEG executive as proposed by the LCH Group Chief Executive Officer, may also serve on the Board but will not be defined as an “Executive Director”.

internally prior to Risk Committee Meetings. Article 1.6 of the ToR will be amended to clarify that external members may only consult other members within their respective firms in a manner consistent with the restrictions set out in the confidentiality provisions signed by such external member.

Further, Article 2 of the ToR, Conduct of Meetings, will be amended to remove reference to the LCH Group Board in Article 2.9 and to remove Article 2.10 in its entirety, which provides that LCH SA's Chief Risk Officer will report to the Board of LCH Group on the discussions, decisions and recommendations of the committee. These revisions are being made to clarify that the committee reports discussions, decisions and recommendations of the committee to the LCH SA Board, as the Board of LCH Group ordinarily does not consider such matters. Likewise, the Committee Secretary will make minutes available to the LCH SA Board and Audit Committee Chair. Finally, Article 10 of the ToR, Payment and Money Settlement Arrangements, Bank Exposures, Liquidity Risk and Collateral, will be revised to amend renumbered Article 10.7.4, which currently provides that breaches of LCH SA's Collateral Risk Policy or Investment Risk Policy must be (a) notified to LCH SA's Chief Risk Officer and Head of CaLM; (b) signed off by LCH SA's Chief Risk Officer or the Head of CaLM, and (c) reported to . . . the Chief Executive Officers of both LCH SA and LCH Group, and the Audit Committee of LCH SA. As revised, such breaches (x) must be signed off only by LCH SA's Chief Risk Officer, and (y) must be reported to . . . the Chief Executive Officer of only LCH SA, and the Audit Committee. This change is being made to reflect that these policies are owned by the Chief Risk Officer who is responsible for signing off as part of their second line function. LCH SA is also proposing to remove reporting breaches to the Chief Executive

Officer of LCH Group as this is no longer a functional role.

To strengthen the committee's supervision of certain information technology and resilience risk matters, Article 3 of the ToR, Risk Appetite and Scope, will be amended to add a new Article 3.2 of the ToR to clarify that the risks within the existing scope of the Risk Committee are Financial and Model Risks and Operational Resilience, as defined in the LCH Risk Governance Framework (**RGF**). Other provisions clarifying the Risk Committee's responsibilities are made throughout the ToR. In particular:

- Article 4, Executive Risk Committee, will be amended to revise Article 4.2 to clarify that the committee will receive detailed reports from the Executive Risk Committee only with regard to the risks defined within the scope of Article 3.2.<sup>13</sup> Pursuant to new Article 3.2, the risks within the scope of the committee are Financial and Model Risks, and Operational Resilience Risks.
- Article 6, CCP Membership, will be revised to add a new Article 6.4 to reflect the current practice that the committee be notified of the outcome of the annual independent validation of the counterparty credit scoring model in accordance with the Model Governance, Validation and Review Policy.<sup>14</sup>
- Article 7, New Clearing Activity: New Markets and Contracts, will be revised to add a new Article 7.5 to reflect the current practice that the committee review on an annual basis a report outlining the compliance of all markets and products

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<sup>13</sup> The committee will receive a detailed risk report from the Executive Risk Committee which includes, among other things, the risk profile of the company. Reference to "the Group" has been removed to reflect the recent change in corporate structure.

<sup>14</sup> The remaining provisions in Article 6 will be renumbered to accommodate this addition.

against the criteria defined in the Contract and Market Acceptability Policy.<sup>15</sup> In addition, renumbered Article 7.7.1 will be revised to reflect the current practice that the Chief Executive Officer may approve new trade venues which present no novel risk features and require no amendment of risk controls, subject to notification to the committee.

- Article 8, Margining, will be revised to clarify in Article 8.2 the committee's current practice of reviewing the initial margin policies contained within the Financial Resource Adequacy Policy and to add a new Article 8.4 to reflect the current practice that the committee be notified of the outcome of the annual independent validation of all margin models in accordance with the Model Governance, Validation and Review Policy. This revision also aligns with the reporting process in the Model Governance, Validation and Review Policy.
- Article 9, Default Fund, Default Rules and Default Procedures, will be revised to (a) add reverse stress testing reports as a component of the committee's review of the adequacy of the default funds in Article 9.1; (b) add a new Article 9.4 to reflect the current practice that the committee be notified of the outcome of the annual validation of all stress testing models used to size the default funds in accordance with the Financial Resources Adequacy Policy; and (c) add a new Article 9.7 to reflect the current practice that the committee review default management fire drill exercise reports to assess LCH SA's default management

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<sup>15</sup> In addition, Article 7.4 will be revised to note that the name of the risk policy on the eligibility of new products accepted for clearing has been changed to the Contract and Market Acceptability Policy.

process.<sup>16</sup> Revision (a) of Article 9 clarifies the specific stress testing reports utilized by the committee. Each of revisions (b) and (c) of Article 9 establish the existing notification and reporting processes done as part LCH SA's default management processes in the committee's ToR.

- Article 10, Payment and Money Settlement Arrangements, Bank Exposures, Liquidity Risk and Collateral, will be revised to reflect LCH SA's current liquidity risk management practices by: (a) adding a new Article 10.3 to provide that the committee will review, on an annual basis (or more frequently if deemed necessary), LCH SA's Liquidity Plan detailing how the standards contained in the Liquidity Risk Policy are applied, to consider proposed changes and to make recommendations to the Board for approval;<sup>17</sup> (b) adding a new Article 10.4 to provide that the committee will be notified of the outcome of the annual independent validation of the liquidity risk model, in accordance with the Liquidity Risk Policy; (c) amending Article 10.5 to provide that the committee will consider the addition of new collateral types and associated risk controls and to recommend them to the Board for approval; (d) adding a new Article 10.6 to provide that the committee will be notified of the outcome of the annual validation of the collateral haircut model in accordance with the Collateral Risk Policy<sup>18</sup>; and (e) adding two proposed changes in the sub-paragraph 10.7.4 in order to remove the power of the Head of CaLM (first line/business) to sign off

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<sup>16</sup> The remaining provisions in Article 9 will be renumbered to accommodate the addition of Article 9.4 and Article 9.7.

<sup>17</sup> The remaining provisions in Article 10 will be renumbered to accommodate the addition of Article 10.3 and Article 10.4 and Article 10.6, below.

<sup>18</sup> *See supra* discussion on revisions to renumbered Article 10.7.4.

on breaches, because only the CRO should do this as part of their second line function. The second change is to remove the LCH Group CEO as a receiver of a breach report, as this role is no longer a functional one.

- Article 11, currently titled Operational Risk Management, will be renamed Operational Resilience Risk, and will be revised to reflect the renaming of Operational Resilience Committee and the Operational Resilience Risk Policies and to align with the ToR of the Operational Resilience Committee. Specifically, LCH SA proposes to: (a) amend Article 11.1 to provide that the committee will review, on an annual basis (or more frequently if deemed necessary), LCH SA's Operational Resilience Risk Policies, following review by the Operational Resilience Committee, and to make recommendations to the Board for approval; (b) add a new Article 11.2 to provide that the committee will inform the Board in a timely manner of any new risk affecting the resilience of LCH SA;<sup>19</sup> and (c) amend Article 11.3 to provide that the committee will review and approve the recommendations of the Operational Resilience Committee in relation to Detailed Operational Risk Assessments for significant projects and new products, as required under LCH SA's Operational Risk Policy, and for notifying the Board of the same.

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<sup>19</sup> Current Article 11.2, which provides that the Risk Committee, at the request of the Audit Committee, will review and provide advice on any aspect of LCH SA's operational risk management framework, will be removed, since this activity is now the responsibility of the Operational Resilience Committee.

- A new Article 12, Model Governance and Procyclicality,<sup>20</sup> will be added to provide that the committee will be responsible for: (a) reviewing annually (or more frequently if deemed necessary) LCH SA's Model Governance, Validation and Review Policy, to consider proposals for modification of those arrangements and to make recommendations to the Board for approval (Article 12.1); (b) reviewing, in accordance with the Model Governance, Validation and Review Policy, at least annually and upon material change, reports prepared by independent model experts confirming the ongoing suitability of LCH SA's financial risk models (Article 12.2); (c) reviewing annually (or more frequently if deemed necessary) LCH SA's Procyclicality Risk Policy, to consider proposals for modification of those arrangements and to make recommendations to the Board for approval; and (d) reviewing, at least annually, reports confirming that LCH SA's risk models do not operate in a procyclical manner. The revisions are being made to align with the ToR of the Risk Committee of LCH Ltd. and to reflect LCH SA's current practice.
- Renumbered Article 13, Regulatory Issues, will be revised to add a new Article 13.2 to reflect the current practice that the committee (a) review, on an annual basis (or more frequently if necessary), LCH SA's Recovery Plan and Wind Down Plan, (b) consider proposals for modification of these arrangements, and (c) make recommendations to the Board for approval. In addition, renumbered Article 13.3 will be revised to clarify the committee shall consider any issue or

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<sup>20</sup> The remaining provisions in Articles will be renumbered to accommodate the addition of new Article 12.

new arrangements relating to the outsourcing of functions that may impact the risk management of the CCP. This revision to Article 13.3 reflects the committee's responsibility to consider the risk impacts of new outsourcing arrangements, as well as any new or existing issues and reflects LCH SA's current practice related to enhancements made to LCH SA's third-party risk management processes.

- Renumbered Article 16, Regular Reports and Notifications, will be amended to simplify the description of the management information to be provided by the Chief Risk Officer. Specifically, a new Article 16.1 will be added to provide that the committee will receive management information from LCH SA's Chief Risk Officer on the assessment of all financial, model and operational resilience risks including any breaches or waivers granted, and will inform the Board in a timely manner of any new significant risk change affecting the resilience of LCH SA.<sup>21</sup> Further, Article 16.2 will be revised to provide that management information will cover recent developments and material issues related to Financial and Model Risks and Operational Resilience Risks.
- Article 20.2 is being amended to correct the responsibility for providing information to the committee about the remuneration structure of the company from the risk management department to the human resources department. This correction reflects how the committee currently assesses the potential affects the remuneration structure may have on the risk profile of LCH SA.

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<sup>21</sup> Further, former Articles 15.1.1 – 15.1.8, which set out specific areas on which the committee would receive reports, have been removed.

**iv.     *The Board***

The ToR of the Board is also being amended to remove the requirement to translate minutes into French prior to Board meetings and to clarify that the Board is responsible for approving the Wind-Down Plan (“**WDP**”).

Article 3, Composition of the Board, is being amended to remove reference to the Chief Risk Officer of LCH Group. Currently, Article 3 provides that the Directors shall include, among other categories, executive directors, including the CEO of LCH SA, the CEO of LCH Group, and an additional LCH executive, who may be but shall not be limited to the Chief Risk Officer of LCH Group. The proposed rule change would delete the phrase “and an additional LCH executive, who may be but shall not be limited to the Chief Risk Officer of LCH Group.” LCH SA is doing so because the Chief Risk Officer position of LCH Group has been retired. Under Article 3 as amended, the Directors shall include, among other categories, executive directors, meaning only the CEO of LCH SA and the CEO of LCH Group. The proposed rule change would also add, in a separate bullet point, another category of Director: an additional LCH or LSEG executive, who may be but shall not be limited to the chief risk officer of LSEG, as proposed by the CEO of LCH Group.

Thus, Article 3, Composition of the Board, is being amended to clarify that the Board’s executive Directors shall include the CEO of LCH SA and the CEO of LCH Group Holdings Limited. LCH SA is also proposing to clarify that the composition of the Board shall include an additional LCH or LSEG executive, who may be the LSEG Chief Risk Officer, as proposed by the CEO of LCH Group. The composition of the Board previously included an additional executive from LCH only. In addition, LCH SA is

proposing to establish that the additional LCH or LSEG executive shall be proposed by the CEO of LCH Group.

Article 10, Minutes, is being amended to strike out the requirement that meeting minutes be translated into French prior to being presented to the Board. LCH SA determined that translating meeting minutes from English to French is no longer required based on the composition of the Board and therefore unnecessary for purposes of minute taking.

Article 12, Powers of the Board, is being amended to add under 12(e) that with respect to risk management, the Board shall approve the WDP of LCH SA. LCA SA's internal procedures establish the governance process regarding the WDP, including the requirement that the Board approve the WDP. The amendment to the ToR to state that the Board shall approve the WDP will align with LCH SA's procedures.

## 2. Statutory Basis

LCH SA has determined that the Proposed Rule Change is consistent with the requirements of Section 17A of the Act<sup>22</sup> and regulations thereunder applicable to it. In particular, Section 17A(b)(3)(C) of the Act provides that the rules of a clearing agency must assure fair representation of its members and participants in the selection of its directors and administration of its affairs.<sup>23</sup> In addition, Section 17A(b)(3)(F) of the Act provides, *inter alia*, that the rules of a clearing agency must be designed. . . to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency for which it is responsible.<sup>24</sup>

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<sup>22</sup> 15 U.S.C. 78q-1.

<sup>23</sup> 15 U.S.C. 78q-1(b)(3)(C).

<sup>24</sup> 15 U.S.C. 78q-1(b)(3)(F).

The Proposed Rule Change will not lead to any change in the proportion of independent directors or the number of directors representing members and participants. Therefore, the Board and the committees of the Board will continue to assure fair representation of its members and participants in the selection of its directors and the administration of its affairs as provided in section 17A(b)(3)(C) of the Act.<sup>25</sup>

The Proposed Rule Change is also consistent with the requirements of Section 17A(b)(3)(F) of the Act.<sup>26</sup> The revisions to the Operational Resilience Committee ToR include clarifications to the purpose of the committee to include appropriate management of operational resilience. This includes reviewing operational resilience policies, including, *inter alia*, the Operational Risk Policy, and the Operational Risk Management Framework. In addition, revisions to the Operational Resilience Committee's ToR include the additional responsibility that the committee review DORAs related to technology, cyber or other operational resilience matters, prior to recommending approval to the Risk Committee. Finally, the revisions to the Operational Resilience Committee ToR establish that the Chair of the committee shall be a standing member of the Risk Committee. This will provide increased transparency across both committees and ensure the Chair of the Operational Resilience Committee communicates any relevant operational resilience issues with the Risk Committee, as applicable.

The Proposed Rule Change also includes revisions to the Risk Committee ToR as it pertains to operational resilience. Specifically, the Risk Committee ToR is being revised to reflect enhanced coordination between the Operational Resilience Committee

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<sup>25</sup> 15 U.S.C. 78q-1(b)(3)(C).

<sup>26</sup> 15 U.S.C. 78q-1(b)(3)(F).

and the Risk Committee as it pertains to the review of LCH SA's Operational Risk Policy. In addition, the Risk Committee ToR is also being revised to reflect that the Risk Committee will review and approve recommendations of the Operational Resilience Committee in relation to DORAs. Finally, the Risk Committee ToR is being revised to establish enhanced notifications and reporting to the committee. Specifically, the revisions provide that the Risk Committee will receive an assessment of all financial, model and operational resilience risks, and shall provide timely reporting to the Board of any significant changes in risk affecting the resilience of LCH SA.

Based on the applicable revisions to the Operational Resilience Committee ToR and the Risk Committee ToR with respect to enhanced oversight, notification and reporting of operational resilience, LCH SA has determined that the Proposed Rule Change is consistent with the requirements of Section 17A(b)(3)(F) of the Act.<sup>27</sup>

In addition, Commission Rule 17Ad-22(e)(2) requires each registered clearing agency to "establish, implement, maintain and enforce written policies and procedures reasonably designed to provide for governance arrangements that: (i) are clear and transparent; (ii) clearly prioritize the safety and efficiency of LCH SA; (iii) support the public interest requirements in Section 17A of the Act applicable to LCH SA, and the objectives of owners and participants; (iv) establish that the Board and senior management have appropriate experience and skills to discharge their duties and responsibilities; (v) specify clear and direct lines of responsibility; and (vi) consider the interests of participants' customers . . . and other relevant stakeholders of the covered

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<sup>27</sup> *Id.*

clearing agency.<sup>28</sup>

As discussed above, the Proposed Rule Change is being adopted primarily in response to a request from its French regulatory authority, the ACPR, that LCH SA: (a) more clearly define the role of the Operational Resilience Committee by focusing its areas of expertise on technical subjects related to information systems, technology and cyber security; (b) more clearly define the role of the Audit Committee in areas relating to operational and resilience risk management; and (c) strengthen the Risk Committee's supervision of certain information technology and resilience risk matters. The Proposed Rule Change also includes amendments to the ToR of the Board to remove the requirement to translate minutes into French prior to Board meetings and to clarify that the Board is responsible for approving the WDP. Finally, other changes are being made to conform the ToR to meet LCH Group requirements.

By (a) more clearly defining the respective roles of the Operational Resilience Committee and Audit Committee, (b) strengthening the Risk Committee's supervision of certain information technology and resilience risk matters, and (c) confirming that the Proposed Rule Change will not lead to any change in the proportion of independent directors or the number of directors representing members and participants, the Proposed Rule Change enhances LCH SA's governance arrangements and assures that they (i) remain clear and transparent; (ii) clearly prioritize the safety and efficiency of LCH SA; (iii) continue to support the public interest requirements in Section 17A of the Act applicable to LCH SA, and the objectives of owners and participants; (iv) establish that the Board and senior management of LCH SA have appropriate experience skills to

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<sup>28</sup> 17 C.F.R. 240.17Ad-22(e)(2).

discharge their duties and responsibilities; (v) specify clear and direct lines of responsibility; and (vi) consider the interests of participants' customers . . . and other relevant stakeholders of the covered clearing agency, within the meaning of SEC Rule 17Ad-22(e)(2).<sup>29</sup>

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.<sup>30</sup> 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.

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

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<sup>29</sup> 17 C.F.R. 240.17Ad-22(e)(2).

<sup>30</sup> 15 U.S.C. 78q-1(b)(3)(I).

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/sro.shtml>) or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include file number SR-LCH SA-2024-003 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.

All submissions should refer to file number SR-LCH SA-2024-003. 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 (<https://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 am and 3 pm. Copies of such filings will also 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/rules-and-regulations/proposed-rule-changes-0>. 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 material that is obscene or subject to copyright protection. All submissions should refer to file number SR-LCH SA-2024-003 and should be submitted on or before [INSERT DATE 21 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>31</sup>

**Sherry R. Haywood,**

*Assistant Secretary.*

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<sup>31</sup> 17 C.F.R. §200.30-3(a)(12).