

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-82883; File No. SR-LCH SA-2018-001)

March 15, 2018

Self-Regulatory Organizations; LCH SA; Order Granting Approval on an Accelerated Basis of Proposed Rule Change Relating to Self-Referencing Transactions

I. Introduction

On January 31, 2018, Banque Centrale de Compensation, which conducts business under the name LCH SA (“LCH SA”), filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² a proposed rule change (SR-LCH SA-2018-001) to amend its CDS Clearing Supplement and its CDS Clearing Procedures in order to allow for the clearance and settlement of client transactions referencing the client’s clearing broker, as well as to amend its Clearing Supplement to provide for the clearance of the Standard European Senior Non Preferred Financial Corporate Transaction type, and to make certain clarifying amendments.³ The proposed rule change was published for comment in the Federal Register on February 15, 2018.⁴ The Commission did not receive comments on the proposed rule change. For the reasons discussed below, the Commission is approving the proposed rule change on an accelerated basis.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Capitalized terms used in this order, but not defined herein, have the same meaning as in the LCH SA Rules, CDS Clearing Supplement, or CDS Clearing Procedures.

⁴ Securities Exchange Act Release No. 34-82675 (February 9, 2018), 83 FR 6915 (February 15, 2018) (SR-LCH SA-2018-001) (“Notice”).

II. Description of the Proposed Rule Change

As currently constructed, LCH SA's rules prohibit certain "self-referencing" transactions. Specifically, LCH SA prohibits, in the case of a house transaction,⁵ the clearing of single-name credit default swap ("SN CDS") transactions where the reference entity underlying the SN CDS is the Clearing Member, or an affiliate of the Clearing Member, that is clearing the transaction. In the case of a client transaction, LCH SA currently prohibits clearing of a transaction in which the reference entity underlying the SN CDS is the client (or an affiliate of the client), or the clearing broker (or affiliate of the clearing broker) of the client that is clearing the CDS transaction.⁶

Under the proposed rule change, LCH SA would permit the clearing of client transactions where the reference entity underlying the SN CDS is the clearing broker, or an affiliate of the clearing broker, of the client clearing the transaction. Specifically, LCH SA would amend Section 4 of its CDS Clearing Procedures to revise the eligibility requirement for SN CDS to make a distinction between house and client self-referencing transactions in order to permit clients to clear CDS where the underlying reference entity is the client's clearing broker or an affiliate thereof.⁷ House transactions where the underlying reference entity is the Clearing Member clearing the transaction would remain

⁵ A house transaction is any Cleared Transaction registered in the House Trade Account of a Clearing Member. A House Trade Account, in turn, is an account opened by LCH SA at the request and in the name of a Clearing Member within the Account Structure of the Clearing Member in the CDS Clearing System in order to register Cleared Transactions cleared by such Clearing Member for its own account. See Section 1.1.1, Terms defined in the CDS Clearing Rule Book, LCH SA CDS Clearing Rule Book, 4 January 2018.

⁶ Notice, 83 FR at 6915.

⁷ Id.

prohibited. In addition, client transactions where the underlying entity is the client clearing the transaction (or an affiliate of the client) will continue to be prohibited.⁸

LCH SA also proposed to amend provisions in its Clearing Supplement that address self-referencing transactions to provide that a clearing broker would not be required to notify LCH SA when a client transaction occurs where the underlying reference entity is the clearing broker of the client clearing the transaction, but would continue to be required to notify LCH SA when a client transaction occurs where the underlying reference entity is the client that is clearing the transaction.⁹

In addition to the changes regarding self-referencing transactions described above, LCH SA proposed amendments to the CDS Clearing Supplement to add (i) a reference to the Standard European Senior Non Preferred Corporate transaction type, (ii) to add a missing reference to the Standard European Financial Corporate transaction type, and (iii) to make certain clarifying edits regarding the underlying index transaction of a cleared index swaption transaction.¹⁰ LCH SA stated that no changes would need to be made to its risk methodology in connection with the addition of a reference to the Standard European Senior Non Preferred Corporate transaction type, as the risks specific to this transaction type would be captured by the framework developed for HoldCo entities that LCH SA previously implemented.¹¹

⁸ Id.

⁹ Id. at 6915-16.

¹⁰ Id. at 6916.

¹¹ Id.

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization.¹² For the reasons given below, the Commission finds that the proposal is consistent with Section 17A(b)(3)(F) of the Act.

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of a registered clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible and, in general, to protect investors and the public interest.¹³ For the reasons stated below, the Commission finds that the proposed rule change is consistent with the requirements of Section 17A(b)(3)(F) of the Act.

The Commission has reviewed the terms and conditions of the contracts that LCH SA intends to clear pursuant to the proposed rule change and has determined that they are substantially similar to other contracts currently cleared by LCH SA, the key difference being, with respect to the Standard European Senior Non Preferred Corporate transaction type, that the reference obligation underlying such contracts represent a new debt class. In the case of the client “self-referencing” transactions, the key difference will be that the

¹² 15 U.S.C. 78s(b)(2)(C).

¹³ 15 U.S.C. 78q-1(b)(3)(F).

underlying reference entity will be the clearing broker, or an affiliate of the clearing broker, of the client clearing the transaction.

Based on a review of the Notice, LCH SA's Clearing Procedures and Clearing Supplement, the Commission believes that LCH SA's existing clearing arrangements and related financial safeguards, protections and risk management procedures will apply to these new transaction types on a substantially similar basis as other contracts currently cleared by LCH SA. In addition, the Commission believes that, as a result of accepting client transactions where the underlying reference entity is the clearing broker (or affiliate of the clearing broker) of the client, such transactions, which are currently executed in the bilateral market and uncleared, will now be eligible to be cleared and benefit from the operational efficiencies and risk management protections available in connection with central clearing.

Therefore, the Commission finds that the proposed rule change is consistent with the requirements of Section 17A(b)(3)(F) of the act regarding the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible and, in general, to protect investors and the public interest.

Section 19(b)(2)(C)(iii) of the Act allows the Commission to approve a proposed rule change earlier than 30 days after the date of publication of the notice of the proposed rule change where the Commission finds good cause for so doing and publishes the reason for the finding.¹⁴ The Commission finds good cause, pursuant to Section

¹⁴ 15 U.S.C. 78s(b)(2)(C)(iii).

19(b)(2)(C)(iii) of the Act, for approving the proposed rule change on an accelerated basis prior to the 30th day after the date of publication of the notice in the Federal Register in order to facilitate the clearing of the Standard European Senior Non-Preferred Financial Corporate transaction type, which the Commission understands market participants will commence trading beginning on March 20, 2018¹⁵ and which are tied to European capital and resolution regulations.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act¹⁶ and the applicable rules and regulations thereunder.

¹⁵ See IHS Markit iTraxx Europe Rule Announcement, February 6, 2018 (stating that for iTraxx Europe Series 29, for French bank OpCos that qualify for inclusion in the index, the senior non-preferred reference obligations will be selected if available).

¹⁶ 15 U.S.C. 78q-1.

IT IS THEREFORE ORDERED pursuant to Section 19(b)(2) of the Act¹⁷ that the proposed rule change (SR-LCH SA-2018-001) be, and hereby is, approved on an accelerated basis.¹⁸

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁹

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Assistant Secretary

¹⁷ 15 U.S.C. 78s(b)(2).

¹⁸ In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹⁹ 17 CFR 200.30-3(a)(12).