

SECURITIES AND EXCHANGE COMMISSION

Release No. 34-85554; File No. SR-LCH SA-2019-001

April 8, 2019

Self-Regulatory Organizations; LCH SA; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to amend the CDS and Options fee grid for CDSClear Clearing Members Effective Retroactively from January 1st, 2019

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on March 25, 2019, 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 and II below, which Items have been prepared primarily by LCH SA. LCH SA filed the proposal 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. 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

The proposed rule change will modify both CDS and Options fee grid for CDSClear activities applicable from January 1st, 2019.

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).

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

1. Purpose

The purpose of this proposed rule change is for LCH SA to (1) modify the annual fixed fee that covers all Index and Single Name CDS self-clearing activity for a General Clearing Member and its affiliates under the Unlimited Tariff, and (2) establish a new Unlimited Tariff to cover all Options self-clearing activity for Clearing Members as well as slightly increase the cap in the existing fee grid for the options clearing service.

The proposed CDSClear fee changes will be retroactive from January 1st, 2019.

The need to apply the fees retroactively results from the long year end 2018 shutdown of the U.S. federal government (the "Shutdown") and the subsequent closure of the Securities and Exchange Commission ("SEC") past December 26th. As a result of the Shutdown, beginning on December 27, 2018, the SEC was closed and SEC employees were out of the office until an appropriation was enacted and the SEC reopened on January 28, 2019. Because the SEC was closed, any filing submitted to the SEC during the Shutdown was not considered "received" (i.e., legally filed) until the SEC reopened in January 2019. Accordingly, when filing no. LCH SA-2018-006 was formally submitted to the SEC on December 27th, 2018 through the Electronic Form 19b-4 Filing System

(“EFFS”) operated by the SEC, the filing was not considered as duly “received,” and therefore did not receive an official “filing date” until the SEC reopened end of January 2019, at which point the filing was rejected on technical grounds because the year indicated in the file number was no longer accurate.

As discussed and agreed with its clearing members and because LCH SA had also intended the fee change to become effective from January 1st, 2019, LCH SA’s national competent authorities had been duly advised of the proposed fee change that was also rule certified with the Commodity Futures Trading Commission (“CFTC”) on December 20, 2018⁵ in a manner that would have permitted the fee change to take effect early January 2019.

Given the termination on December 31st, 2018 of the previous CDSClear annual fixed fee amount applicable to General members under the Unlimited Tariff and any other alternative solution, the absence of the retroactive application of the new proposed and agreed fee grid would cause a potential harm to the LCH SA CDSClear business because CDSClear would have been without a regulatory approved fee grid including the new annual clearing fixed fee amount under the General Member Unlimited Tariff and would thus not have been in a position to collect the relevant revenues throughout its entire fee grid. Further, as described below, the annual fixed fee for the CDS Unlimited Tariff for General Members is supposed to decrease and no change has been made to the General Member Introductory Tariff and the Select Member Tariff so that none of them would be caught unaware if retroactive approval is granted.

5

See
https://www.lch.com/system/files/media_root/Fee%20grid%20changes__20%20Dec%202018.pdf

1) **Annual Clearing Fixed Fee (General Member Unlimited Tariff)**

Until December 31st, 2018, CDSClear was offering an all you can eat type of tariff called the “**CDS Unlimited Tariff**” for General Members that covers all self-clearing CDS Index and Single Name activity for a Clearing Member (“CM”) and its affiliates for an annual fixed fee of €2,000,000 (no variable fee). The proposed change will modify the annual fixed fee of the CDS Unlimited Tariff for General Members from €2,000,000 per year to €1,700,000 per year from January 1st, 2019. This fixed fee will cover all clearing fees for Index and Single Name CDS house activity excluding Sovereign CDS for all affiliates of a given CM group.

2) **Options clearing service fee grid**

In addition, LCH SA is proposing to modify the CDSClear fee grid set up for the Options clearing service. Currently, Clearing Members and Clients that participate in the CDSClear Options clearing service are charged the clearing fees as follows:

General Member	Onboarding Fees	€ 30k	one-off fee per Legal Entity waived until 31-Mar-18
	Clearing Fees	\$ 15	per million of option notional on US Indices*
		€ 15	per million of option notional on European Indices
	<i>Floor on clearing fees</i>	<i>€150k</i>	<i>Per calendar year (no pro-rating)</i>
	<i>Cap on Clearing fees</i>	<i>€500k</i>	<i>Per calendar year (no pro-rating)</i>
Select Member	Onboarding Fees	€ 30k	one-off fee per Legal Entity waived until 31-Mar-18
	Clearing Fees	\$ 18	per million of option notional on US Indices*
		€ 18	per million of option notional on European Indices
	<i>Cap on Clearing fees</i>	<i>€ 500k</i>	<i>Per calendar year (no pro-rating)</i>
Client	Clearing Fees	\$ 20	per million of option notional on US Indices

			€ 20	per million of option notional on European Indices
Clearing fee holiday from launch until 31-Dec-2017 for all Members and Clients.				

* *Subject to regulatory approval*

As specified in the new LCH CDSClear options fee grid attached below under Exhibit 5, effective from 1st January 2019, it is proposed to:

- (a) Rename the current Options clearing service tariff the Options Introductory Tariff;
- (b) Increase the annual cap in the Options Introductory Tariff from €500k to €600k for both General Members and Select Members;
- (c) Introduce a new tariff called the Options Unlimited Tariff available to both General Members and Select Members and in which Members would pay an annual fixed fee to cover all the self-clearing fees for Credit Index Options of all affiliated entities of a given Clearing Member Group . The level of this annual fixed fee (no pro-rating) would be set to:
 - €375k for General Members
 - €400k for Select Members
- (d) Maintain the one-off onboarding fee of €30k to the Options clearing service under the following terms and conditions:
 - i) The onboarding fee will be waived for all General and Select Members until 31-Mar-2019;
 - ii) Under the Options Introductory Tariff, an onboarding fee will be charged for each legal entity (even if of the same Group) onboarding the service; and
 - iii) Under the Options Unlimited Tariff, only one single

onboarding fee will be charged for all affiliated entities of a given Clearing Member Group onboarding the service.

2. 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.⁶

With respect to the change of the CDS Unlimited Tariff, LCH SA has determined in consultation with its clearing members that the reduction in the annual fixed fee for General Members covering their Index and Single Name CDS self-clearing activity is reasonable and appropriate given the costs and expenses to LCH SA in providing the CDSClear service as well as the fact that the business is now reaching a more mature stage in its development and therefore requires less investment in the future.

As explained above and as agreed with the clearing members, applying the fees retroactively is also reasonable. Absent the Shutdown and subsequent closure of the Commission, as duly expected by the CDSClear members pursuant to the consultation process, the proposed fee changes including the new annual fixed fee amount for the General Members would have been immediately applicable from January 1st, 2019 pursuant to Section 19(b)(3)(A)⁷ of the Act and Rule 19b-4(f)(2).⁸

The proposed changes to the Options clearing service fee grid in consultation with CDSClear members aim at:

⁶ 15 U.S.C. 78q-1(b)(3)(D).

⁷ 15 U.S.C. § 78s(b)(3)(A).

⁸ 17 C.F.R. § 240.19b-4(f)(2).

- offer CDSClear Clearing Members a true “all you can eat” tariff that covers all their self-clearing activities across the whole scope of products eligible at CDSClear

- Incentivize additional clearing members to onboard and use the Options clearing service by providing a more attractive tariff in which the marginal cost of clearing options reduces as more volumes are cleared.

- Building enough interdealer liquidity on the Options clearing service such that buy-side clients can also get comfortable with clearing credit index options at LCH SA CDSClear service, which is key for the market participants to get the full benefits of clearing options from a multilateral netting and the associated operational risk decrease perspective.

The proposed fee grid will apply equally to all General Members, Select Members and clients that will voluntary join this CDSClear offering and LCH SA believes that it is reasonable and appropriate.

LCH SA believes that imposing such clearing fees is consistent with the requirements of Section 17A of the Act⁹ 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 Members pay reasonable fees and dues for the services provided by LCH SA, within the meaning of Section 17A(b)(3)(D) of the Act.

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

⁹ 15 U.S.C. 78q-1.

purposes of the Act.¹⁰ LCH SA does not believe that the proposed rule change would impose any burden on competition.

As noted above, LCH SA believes that the fees and any related discount have been set up at an appropriate level given the costs and expenses to LCH SA in offering and maintaining the relevant CDSClear services.

Additionally, the fees and related discounts will apply equally to all Clearing Members of CDSClear.

Further, LCH SA does not believe that the proposed rule change would have a burden on competition because it does not adversely affect the ability of such Clearing Members or other market participants generally to engage in cleared transactions or to access clearing services.

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

(a) The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹¹ and paragraph (f) of Rule 19b-4¹² thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may

¹⁰ 15 U.S.C. 78q-1(b)(3)(I).

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 C.F.R. 240.19b-4(f).

temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, 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-2019-001 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, N.E., Washington, D.C. 20549-1090.

All submissions should refer to File Number SR-LCH SA-2019-001. 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, N.E., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. 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>. 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-2019-001 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

Jill M. Peterson
Assistant Secretary

¹³ 17 CFR 200.30-3(a)(12).