

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-96700; File No. SR-LCH SA-2023-002)

January 18, 2023

Self-Regulatory Organizations; LCH SA; Notice of Filing and Immediate Effectiveness of Proposed Rule Change, as Modified by Amendment No. 1, Relating to the CDS Clear Fee Grid for 2023

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 January 5, 2023, Banque Centrale de Compensation, which conducts business under the name LCH SA (“**LCH SA**”), filed with the Securities and Exchange Commission (“Commission” or “SEC”) the proposed rule change described in Items I, II and III below, which Items have been prepared primarily by LCH SA. LCH SA filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act,<sup>3</sup> and Rule 19b-4(f)(2)<sup>4</sup> thereunder, so that the proposal was effective upon filing with the Commission. On January 13, 2023, LCH SA filed Amendment No. 1 to the proposed rule change, which replaced and superseded in its entirety the original filing.<sup>5</sup> The Commission is publishing this notice to solicit comments

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

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

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A).

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

<sup>5</sup> Amendment No. 1 amends Exhibit 1A to correct a non-substantive formatting error and adds further explanation and justification to Part II(b), statutory basis. Amendment No. 1 also submits an exhibit to the proposed rule change as an Exhibit 3. In a separate correspondence that accompanies Amendment No. 1, LCH SA requests confidential treatment for this Exhibit 3.

on the proposed rule change, as modified by Amendment No. 1 (hereafter, the “proposed rule change”), from interested persons.

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

(a) On January 5, 2023, 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 SR-LCH SA-2023-002 (“**Proposed Rule Change**”) pursuant to Section 19(b) of the Securities Exchange Act of 1934 (“Act”) and Rule 19b-4 thereunder in order to modify and update the current CDS Clear fee grid to be effective early January 2023. This Amendment No. 1 to the Proposed Rule Change,<sup>6</sup> will replace and supersede entirety the original filing.

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

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

(b) Not applicable.

(c) Not applicable.

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

In its filing with the Commission, LCH SA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at

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<sup>6</sup> Available on LCH SA website : [Proposed Rule Changes | LCH Group](https://www.lch.com/resources/rulebooks/proposed-rule-changes) (https://www.lch.com/resources/rulebooks/proposed-rule-changes).

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

the places specified in Item IV below. LCH SA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of these statements.

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

(a) Purpose

The purpose of the proposed fee changes is for LCH SA to reflect the ongoing development and new product scope of the CDSClear service<sup>8</sup> with the objective to meet clearing members and clients' expectations on the clearing offer.

As specified in Exhibit 5 [sic], LCH SA is proposing to amend the CDSClear fee grid for 2023 as follows.

**1) Clearing fees for Sovereign Index and Single Name CDS activity**

LCH SA CDSClear currently offers an Unlimited Tariff for General Members that covers all self-clearing Corporate and Financials CDS Index and Single Names activity for a Financial Group of a Clearing Member for an annual fixed fee of €1,350,000 (no variable fees).

As the scope of products covered by the Unlimited Tariff for General Members does not include Sovereign Single Names CDS, the proposed change introduces a distinct

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<sup>8</sup> Self-Regulatory Organizations; LCH SA; Order Approving Proposed Rule Change Relating to the Clearing of Markit iTraxx® Australia Indices and the Associated Single-Name Constituents and Remediation of WWR Margin Instability, Exchange Act Release No. 34-95503 (August 16, 2022); 87 FR 51471 (August 22, 2022) (SR-LCH SA-2022-004); Self-Regulatory Organizations; LCH SA; Notice of Filing of Amendment No. 2 and Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 2, Relating to Providing Clearing Services for Additional Index and Single Name Credit Default Swaps, Exchange Act Release No. 34-96468 (Dec. 8, 2022); 87 FR 76519 (Dec. 14, 2022) (SR-LCH SA-2022-007).

fixed fee of €180,000 per annum<sup>9</sup> for General Members to cover all self-clearing Sovereign Single Names CDS activity for a Financial Group of a Clearing Member. General Members can opt-in for this tariff or pay variable fees to clear Sovereign Single Name CDS as per the current fee grid.

As per the existing fee grid, CDSClear offers a full discount of Sovereign Single Names variable fees for one calendar year from the launch date of this initiative. This initiative launched on December 14, 2022. As such, LCH SA proposes to amend the fee grid to clarify the full extent of this discount (i.e. from December 14, 2022 up to and including December 14, 2023).

LCH SA proposes to authorize General Members to switch between the annual fixed fee tariff and the variable fees for Sovereign Single Name CDS no more than once per year, such change to be effective from the start of the next month following a 15 business days' notice period.

## **2) General Members' Introductory Tariff**

General Members under the Introductory Tariff pay an annual Membership and clearing fixed fee to cover all self-clearing Corporate, Financials and Sovereign Index and Single Names activity of:

- €200,000 if the total annual gross notional cleared is under €10bn.
- €400,000 if the total annual gross notional cleared is over €10bn.

Besides, currently:

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<sup>9</sup> This annual fixed fee of €180,000 will be divided by twelve and be charged monthly, equaling €15,000 per month

- Where the total annual gross notional cleared by a General Member under the Introductory Tariff reaches €10bn in any calendar year, then no further fixed fees are payable that year and the General Member will automatically be invoiced at the higher tariff of €400,000 for the following year.
- Where the total annual gross notional cleared by a General Member under the Introductory Tariff on the higher tariff of €400,000 falls below €10bn in any calendar year, the General Member will automatically be invoiced at the lower tariff of €200,000 for the following year.

The General Members' Introductory Tariff is charged monthly at one-twelfth of the total per month.

Under the proposal, rather than having a dividing threshold of €10bn in total annual gross notional cleared, all General Members automatically would be charged the higher tariff, and rebated a certain amount if their gross notional clearing activity does not cross the €10bn threshold at the end of the year. As proposed, General Members under the Introductory Tariff would be charged an annual Membership and clearing fee of €400,000 for any given calendar year (one-twelfth being charged each month) but those having cleared less than €10bn in that year would get a rebate in their last bill for the year such that their annual Membership and clearing fee amount would revert to €200,000.

### **3) Select Members' Tariff**

Select Members currently pay an annual membership and clearing fixed fee to cover all self-clearing Corporate, Financials and Sovereign Index and Single Names activity of:

- €250,000 if the total annual gross notional cleared is under €20bn.
- €450,000 if the total annual gross notional cleared is over €20bn.

With the proposed change, the threshold would be lowered to €10 billion from €20 billion. Select Members would pay an annual Membership and clearing fixed fee to cover all self-clearing Corporate, Financials and Sovereign Index and Single Names activity of:

- €250,000 if the total annual gross notional cleared is under €10bn.
- €450,000 if the total annual gross notional cleared is over €10bn.

Currently, where the total annual gross notional cleared by a Select Member reaches €20bn in any calendar year, then no further fixed fees are payable that year and the Select Member will automatically be invoiced at the higher tariff of €450,000 for the following year. Also under the present rules, where the total annual gross notional cleared by a Select Member on the higher tariff of €450,000 falls below €20bn in any calendar year, the Select Member will automatically be invoiced at the lower tariff of €250,000 for the following year. As with the General Members' Introductory Tariff, the Select Members' Tariff is charged monthly at one-twelfth of the total per month.

According to the proposal, not only would the total annual gross notional cleared threshold be halved, but also Select Members automatically would be charged the higher tariff, and rebated a certain amount if their gross notional clearing activity does not cross the newly lowered €10bn threshold at the end of the year. Select Members would be charged an annual membership and clearing fee of €450,000 for any given calendar year (one twelfth being charged each month) but those having cleared less than €10bn in that

year would get a rebate in their last bill for the year such that their annual Membership and clearing fee amount to €250,000.

**4) CCP Switch Programme**

The proposals to the CDSClear fee grid are intended to reflect the incentive fee programme offered to existing and new clearing members (CCP Switch Programme), a proposed rule change that was recently filed with and given immediate effectiveness by the SEC.<sup>10</sup>

**5) High Turnover Fee Plan**

The proposed CDSClear fee grid would introduce a High Turnover Fee Plan (HTFP) for Clients and Select Members.

Currently, CDSClear Clearing Members are charged a variable fee on their client clearing flows per €/ \$ million of gross notional cleared, as follows:

<b>Variable fee</b>					
<b>Client Clearing</b> Per million gross notional cleared					
<b>EUR indices</b>	<b>EUR single names</b>	<b>Credit Index Options – EUR Indices</b>	<b>US Indices</b>	<b>US single names</b>	<b>Credit Index Option – US Indices</b>
<b>€4</b>	<b>€12</b>	<b>€4</b>	<b>\$5</b>	<b>\$17</b>	<b>\$4</b>

<sup>10</sup> Self-Regulatory Organizations; LCH SA; Notice of Filing and Immediate Effectiveness of Proposed Rule Change, as Modified by Amendment No. 1, Relating to the CDSClear CCP Switch Programme, Exchange Act Release No. Release No. 34-95808 (September 16, 2022); [87 FR 57931](#) (September 22, 2022) (SR-LCH SA-2022-005).

Similarly, Select Members are charged a variable fee on their House flows per EUR/USD million of gross notional cleared defined as follows:

<b>Variable fee</b>					
<b>Select Members self-clearing</b> Per million gross notional cleared					
<b>EUR indices</b>	<b>EUR single names</b>	<b>Credit Index Options – EUR Indices</b>	<b>US Indices</b>	<b>US single names</b>	<b>Credit Index Option – US Indices</b>
<b>€4</b>	<b>€10</b>	<b>€10</b>	<b>\$5</b>	<b>\$13</b>	<b>\$10</b>

Under the proposal, the HTFP introduction would establish a variable fee grid based on notional in order to make it more attractive for new Select Members as well as new buy-side clients to select CDSClear as their CCP and/or CDSClear existing Select Members, and clients to clear more by decreasing the marginal variable fee past predefined notional thresholds as detailed below, and in Exhibit 5 [sic]. The HTFP thus provides Select Members and Clients with the same type of incentive to clear more volumes than the Unlimited Tariff offers to General Members, under which they pay an annual fixed fee of €1.35m that covers all self-clearing Corporate and Financial Index and Single Names activity as well as Sovereign Index activity for all entities part of the Financial Group of a given Clearing Member. As a result, the HTFP doesn't need to be offered to the General Members.



The buckets would apply to the actual notional cleared in a given calendar year distinctly for Euro denominated Indices, US Dollar denominated Indices, Euro denominated Single Names and US Dollar denominated Single Names only.

		Bucket 1	Bucket 2	Bucket 3	Bucket 4	Bucket 5
US Index (\$)	Notional Bucket	0	60,000,000,000	120,000,000,000	240,000,000,000	480,000,000,000
	Fee/mm Bucket	5	4	3	2	0
US SN (\$)	Notional Bucket	0	5,000,000,000	10,000,000,000	20,000,000,000	40,000,000,000
	Fee/mm Bucket	17	12	7	2	0
EUR Index (€)	Notional Bucket	0	60,000,000,000	120,000,000,000	240,000,000,000	480,000,000,000
	Fee/mm Bucket	4	3	2	1	0
EUR SN (€)	Notional Bucket	0	5,000,000,000	10,000,000,000	20,000,000,000	40,000,000,000
	Fee/mm Bucket	12	9	6	3	0

Finally, the HTFP would exclude from the determination of the total cleared notional:

- the notional cleared for which a CCP Switch credit note was used to zero out the clearing fees; and
- the notional cleared part of a CCP Switch that thus did not attract any clearing fees.

**6) LSOC account structure fees**

Today, LCH SA did not have any futures commission merchant (FCM) using its clearing services but in view of a first FCM to join the CDSClear service in the coming months, it is proposed to not charge any account structure fees for Legally Segregated, Operationally Commingled (LSOC) account structures.

**7) Extension of the fee holiday period for Options cleared by Clients and maintenance of the EEP usage free of charge in 2023**

LCH SA is proposing to renew the fee holiday<sup>11</sup> for Client clearing Options in 2023 as well as to maintain for 2023 the Electronic Exercise Platform (EEP) usage free of charge, both to promote and encourage option clearing take-up.

(b) Statutory Basis

Section 17A(b)(3)(D) of the Act requires that the rules of a clearing agency provide for the equitable allocation of reasonable dues, fees, and other charges among its participants.<sup>12</sup>

LCH SA believes that this proposed rule change concerning its clearing fee changes is consistent with the requirements of Section 17A of the Act<sup>13</sup> and the rules and regulations thereunder applicable to it, and in particular provides for the equitable allocation of reasonable fees, dues, and other charges among clearing members and market participants by ensuring that clearing members and clients pay reasonable fees and dues for the services provided by LCH SA, within the meaning of Section 17A(b)(3)(D) of the Act.<sup>14</sup>

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<sup>11</sup> Self-Regulatory Organizations; LCH SA; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Amendments of the CDSClear Fee Grid, Release No. 34-90862 (Jan. 6, 2021), 86 Fed. Reg. 2468 (Jan. 12, 2021), File No. SR-LCH SA-2020-007.

<sup>12</sup> 15 U.S.C. 78q-1(b)(3)(D).

<sup>13</sup> 15 U.S.C. 78q-1.

<sup>14</sup> 15 U.S.C. 78q-1(b)(3)(D).

In order to take into account the new product scope of the clearing services offered by CDSClear, including, for example, Markit iTraxx<sup>®</sup> Australia Indices and the Associated Single-Name Constituents, as well as the iTraxx Asia ex Japan Index, the Markit CDX Emerging Markets Index and the single name credit default swaps (“CDS”) that comprise each index, LCH SA is proposing to introduce a fixed fee tariff covering all self-clearing Sovereign Single Names CDS activity carried out by a Financial Group of a Clearing Member. The fixed fee amount was reasonably determined by LCH SA on the basis of the expected General Members’ cleared volumes, examining both the Sovereign Single Name CDS cleared notional by other Credit CCPs as well as the outstanding bilateral notional of Sovereign Single Name CDS available to clear.

This proposed additional tariff for Sovereign Single Name CDS does not impact the existing tariffs applicable to existing clearing services (i.e. the General Members’ Unlimited tariff for Corporates and Financials Index and Single Names the General Members’ Unlimited tariff for Options as well as the General Members' Introductory tariffs for Indices, Single Names and Options). The proposed additional tariff also provides General Members more optionality to manage their cost of clearing Sovereign Single Name CDS by offering a similar choice of tariffs to the existing ones for Corporates and Financials Index and Single Names or for Options.

For both General Members under the Introductory Tariff and Select Members, LCH SA is proposing to adjust the way it collects the fixed fee amount in a transparent manner that is equally applicable to ensure that those Clearing Members are charged the relevant fixed fee amount depending on their total notional cleared for the calendar year in which they cleared such notional.

Additionally, for Select Members, LCH SA is proposing to lower by half the threshold amount which determines the amount of the annual clearing fixed fee to cover all self-clearing Corporate, Financials and Sovereign Index and Single Names activity, thus impacting the rebate that may be granted.

LCH SA believes that implementing such adjustments made to avoid General Members under the Introductory Tariff paying more than Select Members for the same notional cleared whilst General Members have more obligations than Select Members is consistent with the requirements of Section 17A of the Act<sup>15</sup> 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.<sup>16</sup>

LCH SA has determined that the proposed fees associated to the High Turnover Fee Plan are reasonable and appropriate to charge to offer and maintain CDSClear clearing services. In particular, LCH SA believes that the volume-based discounts have been set up at an appropriate level, given the costs and expenses to LCH SA in providing such services. LCH SA also considers that the introduction of the High Turnover Fee Plan is designed to be more appropriate and attractive for Select Members and Clients in order to promote the clearing activity. As a reminder, the current fee grid already includes an Unlimited Tariff for General Members which also implies a decreasing marginal clearing fee rate as cleared notional increases, and thus promotes the clearing activity

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

<sup>16</sup> 15 U.S.C. 78q-1(b)(3)(D).

even further than the HTFP as it applies to all entities part of the Financial Group of a given Clearing Member.

Finally, LCH SA believes that the renewal of the fee holiday for options clearing fees for Clients in 2023 will contribute to growing the options client clearing activity. As a result, LCH SA considers that the introduction of the High Turnover Fee Plan as well as the renewal of the fee holiday for Clients clearing Options are also consistent with the prompt and accurate clearance in accordance with Section 17A(b)(3)(F) of the Exchange Act.<sup>17</sup>

Furthermore, LCH SA has determined that not charging any account structure fees for Legally Segregated, Operationally Commingled (LSOC) account structures is consistent with the absence of charge for account structure fees for a Clearing Member's main Gross Omnibus Segregated Account (GOSA), and as such guarantees equal applicability of fees to any category of market participant wishing to access the CDSClear clearing service.

For all the reasons stated above, LCH SA believes that the Proposed Rule Change is consistent with the requirements of Section 17A(b)(3)(D) of the Act.<sup>18</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>19</sup>

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<sup>17</sup> 15 U.S.C. § 78q-1(b)(3)(F).

<sup>18</sup> 15 U.S.C. 78q-1(b)(3)(D).

<sup>19</sup> 15 U.S.C. 78q-1(b)(3)(I).

LCH SA does not believe that the Proposed Rule Change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because LCH SA is offering the possibility for CDSClear members and clients to obtain a more appropriate and flexible access to the clearing services. The Proposed Rule Change would not affect the ability of Clearing Members or other market participants generally to engage in cleared transactions or to access clearing services.

Additionally, the clearing fee conditions would remain transparent and equally applicable to any category of market participant wishing to access the CDSClear clearing service for the extensive scope of products offered, including those that are not mandatory for clearing.

Further, as explained above, LCH SA believes that the fee rates would be maintained at an appropriate level, given the costs and expenses to LCH SA in offering the relevant 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**

The foregoing proposed rule change has become effective upon filing pursuant to Section 19(b)(3)(A)<sup>20</sup> of the Act and Rule 19b-4(f)(2)<sup>21</sup> thereunder because it establishes

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<sup>20</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>21</sup> 17 CFR 240.19b-4(f)(2).

a fee or other charge imposed by LCH SA on its Clearing Members. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such proposed rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

#### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-LCH SA-2023-002 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-2023-002. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule

change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission’s Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 am and 3:00 pm. Copies of the filing also will be available for inspection and copying at the principal office of LCH SA and on LCH SA’s website at:

<https://www.lch.com/resources/rulebooks/proposed-rule-changes>. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-LCH SA-2023-002 and should be submitted on or before [Commission to insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>22</sup>

Sherry R. Haywood  
Assistant Secretary

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<sup>22</sup> 17 CFR 200.30-3(a)(12).