

**SECURITIES AND EXCHANGE COMMISSION**  
(Release No. 34-97706; File No. SR-LCH SA-2023-004)

June 12, 2023

Self-Regulatory Organizations; LCH SA; Notice of Filing of Proposed Rule Change Relating to Triparty Collateral Mechanism

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Exchange Act” or “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on May 30, 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 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 its (i) CDS Clearing Rule Book (“**Rule Book**”) and (ii) CDS Clearing Procedures (“**Procedures**”) to incorporate new terms and to make conforming, clarifying and clean-up changes to offer the triparty collateral solution to CDSClear clearing members (the “**Proposed Rule Change**”).

The text of the Proposed Rule Change has been annexed as Exhibit 5 to file number SR-LCH SA-2023-004.<sup>3</sup>

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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> All capitalized terms not defined herein have the same definition as in the Rule Book or Procedures, as applicable.

The implementation of the Proposed Rule Change will be contingent on LCH SA's receipt of all necessary regulatory approvals, including the approval by the Commission of the Proposed Rule Change described herein.

**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 Proposed Rule change is being adopted to extend to CDSClear service the triparty collateral solution already offered to the clearing members of LCH SA Non US Business.

LCH SA, as a clearing agency, should have procedures in place to deal with the default of a clearing member. In order to minimize the contagion risk of such a default, LCH SA calculates margin requirements in respect of each clearing member and requires all of them to transfer collateral to meet their respective margin requirements.

In addition to the current currencies and securities that are eligible as Collateral to be posted on a bilateral basis, LCH SA is proposing to offer the triparty collateral solution to the clearing members of the CDSClear service (the "**Clearing Members**"),<sup>4</sup>

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<sup>4</sup> LCH SA already offers a tri-party collateral solution to members of its non-U.S. business lines. Indeed, when this triparty solution was launched for the LCH SA

Clearing Members have expressed interest in using this solution in respect of the CDSClear service as well so as to enable them to harmonize their operational process across all clearing services of LCH SA and benefit from flexibility in their collateral management framework as well as the ability to transfer securities as collateral in a more efficient and automated way than on a bilateral basis. Pursuant to this triparty collateral solution, LCH SA and a Clearing Member may appoint Euroclear Bank and/or Euroclear France as a triparty agent and authorize such triparty agent to enter settlement instructions on their behalf into the securities settlement system to affect movements of securities between a giver account and a taker account opened with the relevant triparty agent on a full title transfer basis for the purposes of transferring Collateral to LCH SA or releasing such Collateral. The triparty collateral solution is an additional way of transferring Collateral to LCH SA by a Clearing Member which is under no obligation to use this solution. LCH SA is not changing collateral eligibility or concentration limits, but rather, is merely providing for a different process for posting acceptable collateral.

The Rule Book and Section 3 of the Procedures are proposed to be amended to offer this triparty collateral solution.

1. Rule Book

LCH SA is proposing to modify Section 1.1.1 (*Terms defined in the CDS Clearing Rule Book*) to incorporate the defined term of “Triparty Documentation” to refer to the documentation entered into between LCH SA, the relevant triparty agent and a

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RepoClear and EquityClear & CommodityClear services, the CDSClear roadmap was busy with other initiatives such that it was decided to postpone the inclusion of CDSClear in the scope of services for which Clearing Members could use the triparty solution.

Clearing Member having exercised its option to transfer Eligible Collateral on a full title transfer basis to LCH SA through a triparty arrangement pursuant to Section 3 of the Procedures.

As a clarification regarding the collateral eligible to Triparty, it is a subset of the LCH SA list of eligible collateral, restricted to bonds that can settle in the Euroclear CSDs (i.e., does not include US Treasuries, UK Gilts, Non-Euro Non-Cash debts and Equities), are interoperable between Euroclear Bank and Euroclear France, and are eligible to 3G pool. A new indent (xxiv) is proposed to be added to Article 2.2.1.1 in order to provide for a new membership requirement pursuant to which the Applicant shall accept to comply with the performance of its obligations pursuant to a Triparty Documentation. As a consequence, the following indents would be renumbered.

Article 2.2.2.1 is also proposed to be amended to add the obligation to comply with the performance of the obligations pursuant to a Triparty Documentation in a new indent (vii) as a continuing obligation for a Clearing Member. Consequently, the following indents would need to be renumbered.

Since the Triparty Documentation will provide for the haircut that will apply to the relevant Eligible Collateral, a reference to the Triparty Documentation is proposed to be added in Article 4.2.6.4 which currently provides, among others, that LCH SA may apply haircuts to Eligible Collateral as set out on the Website.<sup>5</sup>

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<sup>5</sup> As noted below, haircuts and concentration limits in respect of Eligible Collateral will be published on LCH SA's website, and the Triparty Documentation may impose additional eligibility criteria and concentration limits in respect of Eligible Collateral transferred with full title pursuant to a triparty arrangement.

The failure of a Clearing Member to perform its obligations in accordance with, or a breach of, any Triparty Documentation is proposed to be added to the list of Events provided for in Article 4.3.1.1, as an Event that might constitute an Event of Default in respect of a Clearing Member, as this is currently the case in respect of the CDS Clearing Documentation and the Pledge Agreement.

The Rule Book would be also amended to make the following conforming changes that are not related to the implementation of the triparty collateral solution for the CDSClear service. The definition of “Pledged Eligible Collateral” in Section 1.1.1 (*Terms defined in the CDS Clearing Rule Book*) is proposed to be amended by removing a reference to a Clearing Notice since the list of Eligible Currencies and Eligible Collateral is set out in Section 3 of the Procedures in accordance with Article 4.2.6.1 and the proposed amended Section 3 of the Procedures would provide where the list of Eligible Collateral (including Pledged Eligible Collateral) could be found.

Article 2.2.2.1 would be amended to correct a cross-reference in indent (iv).

Finally, Article 4.2.6.1 is proposed to be amended by making a reference to Section 3 of the Procedures in respect of the conditions that will govern the notification of any change in Eligible Currencies and Eligible Collateral.

## 2. Procedures

LCH SA also proposes to modify Section 3 of the Procedures to incorporate terms for implementing this triparty collateral solution.

Section 3.10 (*Eligible Collateral transferred with full title*) is proposed to be amended to include securities transferred pursuant to a triparty arrangement by adding a

new paragraph 3.10.2 (*Eligible Collateral provided pursuant to a triparty arrangement*) and a new introductory paragraph.

Consequently, the current Section 3.10 will be moved under a paragraph 3.10.1 entitled “*Eligible Collateral provided on a bilateral basis*” and any reference to Eligible Collateral provided with full title transfer in this new paragraph 3.10.1 will be clarified by adding that such Eligible Collateral is provided on a bilateral basis. Any cross-reference to Section 3.10 in Section 3 of the Procedures is proposed to be replaced by a cross-reference to paragraph 3.10.1 where necessary.

As a result of the new paragraph 3.10.2, a cross-reference to this new paragraph, indent (d) in each section referring to the return of any type of Collateral in indent (f) of Section 3.7 (*Euro denominated Cash Collateral*), indent (f) of Section 3.8 (*Non-Euro denominated Cash Collateral*), indent (c) of Section 3.9 (*Eligible Collateral*), indent (b) of paragraph 3.10.1 (*Eligible Collateral provided on a bilateral basis*) and indent (a) of Section 3.15 (*Eligible Collateral transfer pursuant to the Pledge Agreement*).

New sub-paragraph 3.10.2, as further described in the next paragraph, will mainly replicate sub-paragraph 3.10.1 subject to the necessary amendments to be made to refer to the triparty arrangements. Such amendments would, include the requirement for a Clearing Member to enter into the triparty documentation as set out in a new sub-paragraph (a) and the reference to triparty accounts to be used by LCH SA. However, there will be some differences in the timelines applicable to the Clearing Member for the purposes of transferring, or requesting return of, securities subject to the triparty arrangements, as described below, and mainly due to the use of a triparty agent for managing their Collateral posted with LCH SA. In new paragraph 3.10.2 (*Eligible*

*Collateral provided pursuant to a triparty arrangement*), it is proposed to add a new sub-paragraph (a) (*General information*) pursuant to which the Clearing Member, a triparty agent which is either Euroclear Bank or Euroclear France and LCH SA may enter into the relevant triparty documentation available upon request to the CDSClear Business Development & Relationship Management team. Under the Triparty Documentation, the relevant triparty agent will be authorized by LCH SA and the Clearing Member to enter settlement instructions on their behalf into the relevant securities settlement system to transfer with full title securities as Eligible Collateral between LCH SA and the Clearing Member. Pursuant to the following sub-paragraph (b) (*Securities accounts*), LCH SA will hold such Collateral in a security account in each Euroclear Bank and Euroclear France for the Clearing member's house activity and in a security account in each Euroclear Bank and Euroclear France for the Clearing member's client activity (excluding any FCM Clients since the provision of securities pursuant to this triparty collateral solution will not be permitted for FCM Clients pursuant to new sub-paragraph (c) of new paragraph 3.1.0.2, indent (ii)). LCH SA may invest Eligible Collateral provided to LCH SA with full title pursuant to a triparty arrangement in accordance with Paragraph 3.11(b). Pursuant to a new sub-paragraph (c) included in new paragraph 3.10.2, the provisions on the transfer of Eligible Collateral pursuant to a triparty arrangement will be described; the purpose of such transfer is either for transferring additional Collateral or substituting such Collateral for any alternative Collateral recorded in its Collateral Accounts. The Clearing Member will need to notify LCH SA of its request to transfer such Eligible Collateral pursuant to a triparty arrangement by no later than 16:00 CET on a Business Day ("Day minus one") in order for the Clearing Member's request to be

processed on the next following Business Day (“Day”) and to enable the transfer to occur on Day in respect of the relevant Collateral Account. It is also specified that the Clearing Member shall notify to LCH SA which CCM Client Collateral Account shall record Eligible Collateral provided pursuant to a triparty arrangement, otherwise such request will not be accepted by LCH SA. The relevant instructions must be submitted, via Euroclear Bank or Euroclear France, as applicable, on Day minus one. Depending on the time when LCH SA receives the confirmation of settlement from Euroclear Bank or Euroclear France on Day, such Eligible Collateral provided pursuant to a triparty arrangement will form part of the relevant Margin Balance. The following paragraph (d) will deal with the applicable conditions for returning such Eligible Collateral. Such return will be subject to the notification of the Clearing Member’s request to LCH SA by the Clearing Member by no later than 12:00 CET on a Business Day (“Day”) in order for the Clearing Member’s request to be processed on Day and to allow LCH SA to give instructions to make the transfer to occur on Day during the Additional Specific Collateral Slot. Any request received by LCH SA pursuant to this process shall be deemed firm and irrevocable. On Day, following the First Intraday Slot and, in any event, by 12:00 CET at the latest, LCH SA will re-calculate the value of the Eligible Collateral to be returned (the “Eligible Triparty Collateral Value”). If LCH SA holds sufficient Collateral (other than that which is to be returned) to cover the relevant Margin Requirement, it will return the Eligible Collateral. If LCH SA does not hold sufficient Collateral (other than that which is to be returned) to cover the relevant Margin Requirement, LCH SA will debit an amount of Euro-denominated Cash Collateral equal to the Eligible Triparty Collateral Value from the relevant TARGET2 Account(s) of the

Clearing Member (or the relevant cash accounts of its TARGET2 Payment Agent) during the Additional Specific Collateral Slot. Provided an amount of Euro-denominated Cash Collateral equal to the Eligible Triparty Collateral Value is received by LCH SA, LCH SA will process the return of the Eligible Collateral to the Clearing Member, otherwise the Clearing Member's return request will be deemed void and no return will be processed. LCH SA's inability to debit Euro-denominated Cash Collateral equal to the Eligible Triparty Collateral Value intra-day through TARGET2 shall not constitute a Payment Failure in respect of the Clearing Member. When these conditions applicable to the Collateral's return are satisfied, the relevant instructions will be submitted via Euroclear Bank or Euroclear France, as applicable, on Day between 13:00 and 15:00 CET, in advance of the relevant Central Securities Depository/International Central Securities Depository cut-off time (except in exceptional circumstances, as determined in an objective and commercially reasonable manner). Last paragraph of new paragraph 3.10.2 will provide for exceptional time limits for notification of transfer and return requests in case of atypical market conditions.

Section 3.9 (*Eligible Collateral*) which applies to any type of securities transferred on a full title transfer basis (including both securities transferred on a bilateral basis or pursuant to a triparty arrangement) or pursuant to the pledge agreement will be amended to clarify where the information on eligible securities, applicable haircuts and concentration limits can be found: on the Website and in respect of securities transferred in accordance with the triparty collateral solution, in the Triparty Documentation as well. In addition, the amendment process in respect of such eligible securities will be clarified in Section 3 of the Procedures by adding a reference to a notification by way of a

Clearing Notice (that is proposed to be removed from the Rule Book as previously described). Additional eligibility criteria and concentration limits in respect of securities provided pursuant to a triparty arrangement will be subject to the prior consent of the relevant triparty agent as provided for in a new paragraph 3.10.2 (a) of Section 3 of the Procedures. As a result, the reference to a Clearing Notice mentioned in Section 3.13 applicable to Eligible Collateral pursuant to the Pledge Agreement will be removed as there will be no Clearing Notice which describes such Eligible Collateral, all relevant information will be found on the Website.

Section 3.9 will be also amended to clarify that Eligible Collateral transferred with full title may be provided on a bilateral basis or pursuant to a triparty arrangement, where necessary. Indent (c) (*Events affecting the eligibility of Eligible Collateral*) is proposed to be amended to exclude securities transferred pursuant to the triparty collateral solution from the current management process applicable to Collateral Events. Such Collateral Events will be managed by the relevant triparty agent in accordance with the Triparty Documentation. Consequently, the scope of Section 3.12 is reduced to Eligible Collateral transferred with full title on a bilateral basis.

Other amendments will be made to Section 3 of the Procedures in order to correct some cross-references or typographical errors.

With the exception of the above proposed CDS Clearing Rules changes, no other change are required.

## 2. Statutory Basis

LCH SA believes that the Proposed Rule Change is consistent with the

requirements of Section 17A of the Securities Exchange Act of 1934<sup>6</sup> (the “Act”) and the regulations thereunder, including the standards under Rule 17Ad-22.<sup>7</sup> Section 17(A)(b)(3)(F)<sup>8</sup> of the Act requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and derivative agreements, contracts, and transactions and 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.

By offering an optional mechanism to LCH SA CDSClear Clearing Members allowing them to cover their margins with eligible securities through the use of a triparty agent, the Proposed Rule Change will broaden the solutions for Clearing Members to deposit collateral to LCH SA and enable further optimization of their collateral management framework, reducing the overall cost of clearing which in turn may lead Clearing Members to clear more products more systematically, and thus contributing to the prompt and accurate clearance process and settlement of securities transactions and derivative agreements, contracts, and transactions and to assure the safeguarding of securities which is consistent with the requirements of Section 17(A)(b)(3)(F)<sup>9</sup>. Further, given that the risks affecting the security are the same independently of how the security is lodged, what applies for the bilateral arrangement will also apply for the tri-party collateral mechanism, the Proposed Rule Change will not have any impact on the the

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<sup>6</sup> 15 U.S.C. 78q-1.

<sup>7</sup> 17 CFR 240.17Ad-22.

<sup>8</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>9</sup> 15 U.S.C. 78q-1(b)(3)(F).

safeguarding of securities and funds which are in the custody or control of the clearing agency or on the existing risk methodology applied by LCH SA.

The triparty collateral mechanism is also offering an optional solution that would reduce the number of manual actions necessary in the processing of non-cash collateral deposit/release for both the clearing agency and the Clearing Members. Indeed, there is only a single instruction required from the Clearing Member (i.e. the triparty ticket amount) to allocate a basket of securities in the system with an automatic process for the settlement of margin calls and handling of coupons. This contributes to reduce the operational risk associated with the settlement of margin call and is thus consistent with the provisions of Rule 17Ad-22(e)(17)<sup>10</sup> requiring a covered clearing agency to manage operational risks by identifying the plausible sources of operational risk, both internal and external, and mitigating their impact through the use of appropriate systems, policies, procedures, and controls.

LCH SA also believes that the Proposed Rule Change is consistent with the requirements of a well-founded, clear, transparent, and enforceable legal framework of Exchange Act Rule 17Ad-22(e)(1).<sup>11</sup> As described above, the Proposed Rule Change will be adding (i) a new membership requirement regarding the compliance of the Clearing Member with the triparty documentation; and (ii) the failure of a Clearing Member to perform its obligations in accordance with, or a breach of, any Triparty Documentation to the list of Events that might constitute an Event of Default in respect

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<sup>10</sup> 17 CFR 240.17Ad-22(e)(17).

<sup>11</sup> 17 CFR 240.17Ad-22(e)(1).

of a Clearing Member which constitutes a relevant and appropriate legal framework consistent with the requirements of Exchange Act Rule 17Ad-22(e)(1).<sup>12</sup>

For the reasons stated above, LCH SA believes that the Proposed Rule Change with respect to the triparty collateral mechanism is consistent with the requirements of prompt and accurate clearance and settlement of securities transactions in Section 17(A)(b)(3)(F)<sup>13</sup> of the Act, the requirements of operational risk management in Rule 17Ad-22(e)(17)<sup>14</sup> and of a well-founded legal framework in Rule 17Ad-22(e)(1).<sup>15</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>16</sup> LCH SA does not believe that the proposed rule change would impose burdens on competition that are not necessary or appropriate in furtherance of the purposes of the Act. 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. Specifically, in order for its clearing services to be aligned, the Proposed Rule Change will extend to CDS Clear service the existing triparty collateral mechanism which is an additional Collateral transferring solution already offered to clearing members of LCH SA Non U.S. Business lines.

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<sup>12</sup> 17 CFR 240.17Ad-22(e)(1).

<sup>13</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>14</sup> 17 CFR 240.17Ad-22(e)(17).

<sup>15</sup> 17 CFR 240.17Ad-22(e)(1).

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

The Proposed Rule Change would be offered equally to all CDSClear clearing members. However, it is specified that on the expected launch date, the Triparty collateral mechanism would not be available in respect of the client activity of the CDSClear clearing members, in accordance with the amended list of eligible securities published on LCH SA's website.

Therefore, LCH SA does not believe that the proposed rule change would impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

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

Written comments relating to the proposed rule change have not been solicited or received. LCH SA will notify the Commission of any written comments received by LCH SA.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

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

Electronic Comments:

- Use the Commission's Internet comment form (<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-2023-004 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-2023-004. 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>. 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-2023-004 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>17</sup>

Sherry R. Haywood  
Assistant Secretary

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