

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-94505; File No. SR-LCH SA-2022-003)

March 24, 2022

Self-Regulatory Organizations; LCH SA; Notice of Filing of Proposed Rule Change
Relating to the Restructuring Notification Process for Swaptions

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act” or “Exchange Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on March 18, 2022, 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 prepared primarily 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

(a) Banque Centrale de Compensation, which conducts business under the name LCH SA (“LCH SA”), is proposing to amend its (i) CDS Clearing Supplement (“**Supplement**”) and (ii) CDS Clearing Procedures (“**Procedures**”) to incorporate new terms and to make conforming, clarifying and clean-up changes to implement a delegation mechanism for clients of CDS Clear clearing members which applies in the context of the restructuring process for swaptions (the “**Proposed Rule Change**”).

The text of the Proposed Rule Change has been annexed [sic] as Exhibit 5.³

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ All capitalized terms not defined herein have the same definition as in the CDS Clearing Rule Book, Supplement or Procedures, as applicable.

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 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 Rule Change is to to [sic] amend the restructuring notification process applicable in respect of swaptions registered in a Client Account Structure. Currently, in the event of a restructuring which would be applicable to a component transaction of the underlying index transaction to which a set of swaptions relate, Clearing Members would be in charge of sending and receiving the relevant notices in respect of this restructuring and notifying LCH SA of any such notice delivered or received by no later than 5:00 pm on the cut-off date. Where such restructuring also relate to swaptions registered in a Client Account Structure, this also implies from the Client that it shall first deliver the restructuring notice to its Clearing Member and its Clearing Member delivers the equivalent notice to the other Clearing Member to allow

for this notification requirement by the relevant Clearing Member to LCH SA by no later than 5:00 pm on the cut-off date.

The proposed amendments to the restructuring process for swaptions registered in a Client Account Structure will remove any dependency between the notification duties in the context of a restructuring. The proposed rule change will provide for a delegation mechanism whereby Clearing Members shall appoint their Clients as their Restructuring Delegation Beneficiaries for the purposes of sending and receiving the relevant notices to the other Clearing Member(s) or Client(s) in the event of a restructuring affecting the swaptions registered in their relevant Client Account Structure. The notification duty vis-à-vis LCH SA following the sending or receiving of the notices will also rely on such Restructuring Delegation Beneficiary. These amendments replicate the current delegation legal mechanism which is used in the context of the exercise process in respect of swaptions registered in a Client Account Structure.

1. Supplement

LCH SA is proposing to modify Part C of the Supplement (“Part C”) to incorporate terms for implementing the delegation mechanism for the restructuring process and to make certain conforming and clean-up changes to improve clarity of Part C.

Section 1.2 (*Terms defined in the CDS Clearing Supplement*) of Part C would be amended by adding the following new defined terms.

The term “Restructuring Delegation Beneficiary” would be added to refer to a Client of a Clearing Member designated by such Clearing Member pursuant to new Section 5.7 (*Delegation by Clearing Members to Clients*) as being entitled to send and

receive Credit Event Notices and Notices to Exercise Movement Option in respect of the relevant Swaption Restructuring Cleared Transactions on such Clearing Member's behalf.

The term “Swaption Restructuring CCM Client Notice” would be added to make a cross reference to its definition as set out in Mandatory Provision 7.3 (*Duty to Deliver Swaption Restructuring CCM Client Notice*) in Appendix VIII to Part C.

The existing term “Exercise Delegation Beneficiary” would be amended for clarification purpose as the current reference to “The” Client seems to imply that only a single Client of a Clearing Member could be appointed as an Exercise Delegation Beneficiary irrespective of whether the Clearing Member is acting on behalf of other Clients and therefore this reference will be replaced by “A” Client for the sake of clarity.

Because of the new Section 5.7 (*Delegation by Clearing Members to Clients*) added to Part C, any cross-references to Sections 5 following this new Section 5.7 should be renumbered. Therefore the cross-references in the definitions of “Swaption Restructuring Clearing Member Notice” and “Swaption Restructuring Clearing Member Notice Deadline” would be updated accordingly.

A new sub-paragraph (ii) would be added to Section 1.7 (c) (*Application to FCM/BD Clearing Members*) to provide that, notwithstanding an FCM/BD Clearing Member acting as agent for the account of an FCM/BD Client with respect to Index Swaption Cleared Transactions, an FCM/BD Clearing Member shall designate its FCM/BD Client to send and receive the relevant restructuring notices on its behalf as its Restructuring Delegation Beneficiary in accordance with the relevant provisions of Part C. As a result, the current equivalent paragraph (c) in respect of the exercise process has been renumbered as a sub-paragraph (i).

Section 5 (*Restructuring*) of Part C would be amended to add new provisions to implement this delegation mechanism for the restructuring process involving swaptions registered in a Client Account Structure.

Sections 5.1, 5.3, 5.5 and 5.6 of Part C would be amended by adding references to the new defined term of Restructuring Delegation Beneficiary where needed.

An additional paragraph would be added at the end of Section 5.1 to provide for the express consent from the Clearing Member on the disclosure of its information needed for the purpose of the restructuring process.

A new Section 5.7 (*Delegation by Clearing Members to Clients*) is proposed to be added in order to provide for the legal mechanism of delegation which will apply for Clients and will replicate the equivalent provisions of Section 6.4 (*Delegation by Clearing Members to Clients*) applicable in respect of the exercise process. Specifically, Section 5.7 would provide that, with respect to the sending of the relevant notices for Swaption Restructuring Cleared Transactions of a Swaption Restructuring Matched Pair which are Client Cleared Transactions, Clearing Members shall designate their relevant Clients to act on their behalf and such designation will take effect as soon as reasonably practicable following receipt by LCH SA of duly completed and signed Delegation Forms. The Client so designated will be the Restructuring Delegation Beneficiary. Such designation may be withdrawn provided that there is no Swaption Restructuring Cleared Transaction registered in the relevant Client Account Structure. Where a Clearing Member designates its Client in accordance with new Section 5.7, any delivery or receipt of a restructuring notice by the designated Client will be deemed to constitute the delivery or receipt of a valid restructuring notice by its Clearing Member. Similarly, any

reference in Part C to a restructuring notice delivered or received by a designated Client will be interpreted as delivery or receipt by a Clearing Member.

Because of the insertion of this new Section 5.7 (*Delegation by Clearing Members to Clients*) in Part C, the following Sections 5 would be renumbered and any cross-reference in Part C to the renumbered Sections would be amended accordingly.

Section 5.8 (*Swaption Restructuring Clearing Member Notices*) of Part C would be amended to include the appropriate references to the Client designated as a Restructuring Delegation Beneficiary which will notify LCH SA of the delivery or receipt of the relevant restructuring notices on behalf of its Clearing Member in order that LCH SA may give effect to the relevant restructuring notices exchanged between the parties to a Swaption Restructuring Cleared Transaction. There will be also references to the new defined term of Swaption Restructuring CCM Client Notice to be added and which, pursuant to Mandatory Provision 7.3 of Appendix VIII to Part C, will refer to the notice sent to LCH SA or the relevant Clearing Member by a Restructuring Delegation Beneficiary following receipt or delivery of a restructuring notice.

Paragraph (b) of Section 8.1 (*General Rules relating to Notices*) to [sic] remove the reference to the occurrence of an Electronic Exercise Platform (“**E**EP”) Failure Event since the scope of this paragraph will be broader than the exercise process as it will include a new reference to a Restructuring Delegation Beneficiary.

Finally, Section 13 (*Exclusion of Liability*) of Part C would be amended to add a new Section 13(c) replicating the provisions of Section 13(b) and specifying that LCH SA would have no liability to a Clearing Member which has delegated to a Restructuring Delegation Beneficiary its power to send or receive the relevant restructuring notices on

its behalf for any loss, cost or expense arising out of any failure of such Restructuring Delegation beneficiary to perform its obligations in relation with such delegation or in connection with or arising from the delivery of such notices.

Part C would be also amended to make the following conforming changes that are not related to the restructuring delegation.

In Section 6.1 (*Creation and Notification of Exercise Matched Pairs*) of Part C, the provisions on the content of the Protected Exercise Matched Pair Report would be amended to remove any reference to contact details of the relevant parties. Indeed, since such contract details will be the subject of a separate notification by LCH SA, a new paragraph would be added at the end of sub-paragraph (ii) of Section 6.5 (a) which would be entitled as “Access to the Protected Exercise Matched Pair Report and other information”. As a result of this change, any reference to the Protected Exercise Matched Pair Report in Part C, including but not limited to Section 8, would be amended by either removing the reference to this report to keep general notification’s references or adding a reference to any other information which is notified by LCH SA for the purpose of the exercise process for consistency purposes. Similarly to the amendment made under Section 5.1, an additional paragraph will be added at the end of Section 6.1 to require for the express consent from the Clearing Member on the disclosure of its information needed for the purpose of the exercise process.

In addition, and on the basis of new Section 5.7, Section 6.4 would specify that the designation of a Client as an Exercise Delegation Beneficiary may be withdrawn provided that there is no Exercise Cleared Transaction registered in the relevant Client Account Structure.

Appendix VIII (CCM Client Transaction Requirements) to Part C would be amended for the purposes of including references to the new delegation mechanism for the restructuring process. Any Client designated as a Restructuring Delegation Beneficiary will be in charge of sending and receiving the relevant restructuring notice for the relevant Swaption Index Cleared Transaction directly to the relevant Clearing Member or Client on behalf of its Clearing Member. As a result, there will be no longer the need for them to send restructuring notices to their Clearing Members to allow them to send equivalent notice to the other Clearing Member comprised in the relevant Matched Pair. Mandatory Provision 4 will be therefore amended to remove the reference to the restructuring notices that could be sent by a CCM Client to its CCM in respect of the mirroring transaction between such CCM Client and CCM.

The changes made to Section 6.1 (*Creation and Notification of Exercise Matched Pairs*) of Part C would be replicated in Mandatory Provisions 5.4 and 5.8 to remove the reference to the Protected Exercise Matched Pair Report which is too restrictive or refer to other notice details provided by LCH SA for the purposes of the exercise process.

Mandatory Provision 5.6 would be amended to add a reference to the CCM since contact details of a CCM Client could be also provided by a CCM to LCH SA.

The current Mandatory Provision 7 is entirely removed from Appendix VIII as it applies to the delivery of notices in respect of the mirroring transaction between a CCM Client and its CCM in the event of restructuring, which will be no longer needed following the implementation of the proposed rule change. New Mandatory Provision 7 will be entitled “Designation of CCM Client as a Restructuring Delegation Beneficiary by CCM” and replicates the equivalent provisions of Mandatory Provision 5 (Designation

of CCM Client as an Exercise Delegation Beneficiary) subject to the necessary amendments linked to the restructuring process. New paragraph 7.1 will provide for the mandatory designation of a CCM Client as a Restructuring Delegation Beneficiary by its CCM in accordance with new Section 5.7 of Part C. New paragraph 7.2 will provide that neither the CCM nor the CCM Client shall send the relevant restructuring notices for the mirroring transaction between the CCM and its CCM Client but instead the CCM Client as the Restructuring Delegation Beneficiary shall send or receive the relevant restructuring notices for the corresponding CCM Client Cleared Transaction pursuant to Part C, such restructuring notices being deemed sent or received in respect of the relevant mirroring transaction. The following new paragraph 7.3 provides for the duty to deliver a Swaption Restructuring CCM Client Notice to LCH SA by the Restructuring Delegation Beneficiary. If such notification is not made within the required timeframe, LCH SA will decide either to give effect to the restructuring notices pursuant to Section 5.8 (c) of Part C or not to give effect to the restructuring notices then, following Exercise, an amount shall be payable between the Clearing Members equal to the difference between the value of the Matched Buyer Contract had the Swaption Restructuring CCM Client Notice been given to LCH SA within the required timeframe and the value of such contract in the absence of such Swaption Restructuring CCM Client Notice having been given. This amount shall be determined and paid in accordance with the provisions of this new paragraph. New paragraph 7.4 relates to the contact details of LCH SA and the CCM Client to be used for the purposes of delivering the relevant notices. Last paragraph 7.5 provides for a confidentiality waiver regarding the notice details provided by the CCM Client.

Finally, the proposed amendments to the Supplement also contain typographical corrections in Sections 3.1 and 8.1 (c) of Part C and Mandatory Provisions 5.1 and 5.4 of Appendix VIII to Part C without affecting the meanings of such Sections or Mandatory Provisions.

2. Procedures

LCH SA also proposes to modify Section 5 of the Procedures to incorporate terms for implementing the new delegation mechanism for the purposes of the restructuring process applicable in respect of swaptions.

Section 5.19.1 which currently deals with the delegation applicable to the exercise process will be amended for taking into account the delegation for the restructuring process. Consequently, Section 5.19.1 will be entitled “Delegation by Clearing Members to Clients” and Section 5.19 “Delegation by Clearing Members to Clients and Electronic Exercise Platform”.

Pursuant to amended Section 5.19.1, a Clearing Member which has delegated to a Client the power to send and receive the relevant notices in the context of a restructuring for swaptions in accordance with Section 5 of Part C shall notify such Restructuring Delegation by sending the relevant form to LCH SA which will be defined as the Delegation Form as it will contain both Exercise Delegation and Restructuring Delegation. The defined term of “Exercise Delegation Withdrawal” will be also replaced by “Delegation Withdrawal” to cover the possibility for withdrawing the delegation applicable in respect of the restructuring process and references to provisions of Part C that are equivalent to the withdrawal for the exercise process will be added for the restructuring process.

Other amendments will be made to Section 5.19.1 in order to include the references to either the Restructuring Delegation Beneficiary or the Restructuring Delegation where relevant.

(b) Statutory Basis

LCH SA believes that the Proposed Rule Change is consistent with the requirements of Section 17A of the Securities Exchange Act of 1934⁴ (the “Act”) and the regulations thereunder, including the standards under Rule 17Ad-22.⁵ Section 17(A)(b)(3)(F)⁶ 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. As noted above, the Proposed Rule Change is designed to implement the delegation legal mechanism to operationally facilitate any required restructuring notification process for swaptions which will improve the process for sending and receiving of restructuring notices to more promptly and accurately reflect the restructuring status of the cleared option transaction in LCH systems.

Further, LCH SA believes that the proposed changes to the Rule Book, Supplement and Procedures are consistent with requirements of Rule 17Ad-22(e)(17).⁷

⁴ 15 U.S.C. 78q-1.

⁵ 17 CFR 240.17Ad-22.

⁶ 15 U.S.C. 78q-1(b)(3)(F).

⁷ 17 CFR 240.17Ad-22(e)(17).

Rule 17Ad-22(e)(17) requires a covered clearing agency to manage operational risks by (i) 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; (ii) ensuring that systems have a high degree of security, resiliency, operational reliability, and adequate, scalable capacity; and (iii) establishing and maintaining a business continuity plan that addresses events posing a significant risk of disrupting operations.⁸

As described above, the Proposed Rule Change will enable LCH SA to more effectively manage the operational notification risks associated with the restructuring event process by providing an alternative solution with an operational delegation mechanism for the restructuring notification process. Specifically, the current bilateral notification process creates plausible operational and legal risks if LCH SA is not provided in due time by its Clearing Member with the relevant restructuring notice sent by the client. To remove any unnecessary dependency on the bilateral notification process and duties between the Clearing Members(s) and client(s) in the context of a restructuring event for swaptions, the Proposed Rule Change is designed to implement a delegation mechanism whereby clients of Clearing Members shall be appointed as their Restructuring Delegation Beneficiaries for the purposes of sending and receiving the relevant notices to the other Clearing Member(s) or Client(s) in the event of a restructuring affecting the swaptions registered in their relevant Client Account Structure.

⁸ 17 CFR 240.17Ad-22(e)(17).

By implementing a relevant and consistent delegation legal mechanism, the Proposed Rule Change is reducing potential legal risk at LCH SA and is therefore consistent with the requirements of a well-founded, clear, transparent, and enforceable legal framework of Exchange Act Rule 17Ad-22(e)(1).⁹

For the reasons stated above, LCH SA believes that the Proposed Rule Change with respect to the Supplement and Procedures in connection with the implementation of the delegation mechanism for the restructuring notification process for swaptions are consistent with the requirements of prompt and accurate clearance and settlement of securities transactions in Section 17(A)(b)(3)(F)¹⁰ of the Act and the requirements of operational risk management in Rule 17Ad-22(e)(17)¹¹ and of a well-founded legal framework in Rule 17Ad-22(e)(1).¹²

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.¹³ 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. Specifically, the proposed changes to the Supplement and Procedures would apply equally to all Clearing Members and their Clients. This would

⁹ 17 CFR 240.17Ad-22(e)(1).

¹⁰ 15 U.S.C. 78q-1(b)(3)(F).

¹¹ 17 CFR 240.17Ad-22(e)(17).

¹² 17 CFR 240.17Ad-22(e)(1).

¹³ 15 U.S.C. 78q-1(b)(3)(I).

remove the burden on clearing brokers from needing the operational capacity to intermediate the sending and receiving of notices from clients, thereby improving the competitive landscape for clearing brokers wishing to support the clearing of options. 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. Please include File Number SR-LCH SA-2022-003 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-2022-003. 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 (<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-2022-003 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.¹⁴

J. Matthew DeLesDernier
Assistant Secretary

¹⁴ 17 CFR 200.30-3(a)(12).