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For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>73</sup>

**J. Matthew DeLesDernier,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–97888; File No. SR–LCH SA–2023–005]

### Self-Regulatory Organizations; LCH SA; Notice of Filing of Proposed Rule Change Relating to Portfolio Margining

July 13, 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 June 29, 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 (“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

LCH SA is proposing to amend its FCM/BD CDS Clearing Regulations (“Regulations”) and certain provisions of its CDS Clearing Rule Book (“Rule Book”) to implement a portfolio margining program (“Program”), pursuant to which FCM/BD Clearing Members may offer FCM/BD Clients the opportunity to portfolio margin FCM/BD Cleared Transactions that are security-based swaps (“SBS”) with FCM/BD Cleared Transactions that are Cleared Swaps in the participating FCM/BD Clearing Member’s FCM/BD Swaps Client Account Structure. LCH SA is also proposing to amend certain provisions of its Rule Book and its CDS Clearing Procedures (“Procedures”)<sup>3</sup>

regarding permitted Collateral (including Eligible Collateral and Eligible Currency), the Client Collateral Buffer, and the release of Collateral to a Clearing Member. In addition, LCH SA is making other miscellaneous amendments to its Rule Book, Procedures and CDS Clearing Supplement and will adopt a new Clearing Notice. Further, LCH SA is also making a number of amendments to its Liquidity Risk Modelling Framework (“Framework”)<sup>4</sup> to take into account the segregation requirements and investment restrictions applicable to FCMs’ customer funds. (collectively, the “Proposed Rule Change”).<sup>5</sup>

The text of the Proposed Rule Change has been annexed as Exhibit 5 to file number SR–LCH SA–2023–005.<sup>6</sup>

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

In separate orders issued in November, 2021, the SEC and the Commodity Futures Trading Commission (“CFTC” and collectively with the SEC, the “Agencies”) set out the terms and conditions pursuant to which LCH SA’s FCM/BD Clearing

Members may elect to offer their FCM/BD Clients the opportunity to portfolio margin FCM/BD Cleared Transactions that are SBS with FCM/BD Cleared Transactions that are Cleared Swaps in the participating FCM/BD Clearing Member’s FCM/BD Swaps Client Account Structure. The Proposed Rule Change is being adopted, in part, to implement this Program. In addition, the Proposed Rule Change will amend certain provisions of its Rule Book and its Procedures regarding permitted Collateral, the Client Collateral Buffer, and the release of Collateral to a Clearing Member. The Proposed Rule Change will also make other miscellaneous amendments to LCH SA’s Rule Book and Procedures. Finally, the Proposed Rule Change will also update the Liquidity Risk Modelling Framework with respect to the liquidity resources and requirements applicable to FCM/BD Clearing Members.

###### a. Portfolio Margining Program

The rules establishing the Program will be set out primarily in a new Regulation 7 in LCH SA’s FCM/BD Clearing Regulations (“Regulations”), which are designed to ensure that the Program complies with the terms and conditions set out in the SEC Portfolio Margining Order<sup>7</sup> and the CFTC Portfolio Margining Order.<sup>8</sup>

- Section 7(a) of the Regulations, In General, will define the “Portfolio Margining Program” as the program by which LCH SA is authorized, pursuant to the SEC Portfolio Margining Order and the CFTC Portfolio Margining Order, to offer FCM/BD Clearing Members, on behalf of their FCM/BD Clients, the ability to elect to portfolio margin FCM/BD Cleared Transactions that are SBS with FCM/BD Cleared Transactions that are Cleared Swaps.<sup>9</sup>

- Section 7(b) of the Regulations, Participation, will provide that FCM/BD Clearing Members may participate in

<sup>7</sup> The Definitions section of the Regulations will be amended to define the “SEC Portfolio Margining Order” to mean “Exchange Act Release 34–93501 (Order Granting Conditional Exemptions Under the Securities Exchange Act of 1934 in Connection With the Portfolio Margining of Cleared Swaps and Security-Based Swaps That Are Credit Default Swaps”, 86 FR 61357 (November 5, 2021)). This Order applies to all SEC-registered clearing agencies and all SEC-registered broker-dealers.

<sup>8</sup> The Definitions section of the Regulations will be amended to define the “CFTC Portfolio Margining Order” to mean the “Treatment of Funds Held in Connection with Clearing by LCH SA of Single-Name Credit Default Swaps, Including Spun-Out Component Transactions” issued on November 1, 2021. This Order applies solely to LCH SA and its FCM/BD Clearing Members.

<sup>9</sup> The Definitions section of the Regulations will be amended to define the “Portfolio Margining Program” by making a direct reference to Regulation 7(a) in the Regulations.

previously submitted to the Securities and Exchange Commission (SEC) under the Filing No. SR–LCH SA–2023–004” which is still subject to SEC’s approval.

<sup>4</sup> The amendments are to the version of the Framework that has been submitted to SEC for approval under the Filing No SR–LCH SA–2023–003, which conforms the Framework to the common template adopted by the London Stock Exchange Group (“LSEG”) for use by each of its affiliates.

<sup>5</sup> Capitalized terms not defined herein are defined in LCH SA’s Rule Book, available at <http://www.lch.com/rules-regulations/rulebooks/sa>.

<sup>6</sup> All capitalized terms not defined herein have the same definition as in the Rule Book or Procedures, as applicable.

<sup>73</sup> 17 CFR 200.30–3(a)(12).

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

<sup>2</sup> 17 CFR 240.19b–4.

<sup>3</sup> The version of the Rule Book and Section 3 of the Procedures which includes the Proposed Rule Change reflects a separate proposed rule change

the Program by providing LCH SA such materials that LCH SA may require from time to time, including in respect of its FCM/BD Clients. This section also provides that, in providing these materials to LCH SA, the FCM/BD Clearing Member shall be deemed to represent that: (a) it is both an FCM and a BD and neither such status has been revoked; (b) it is in compliance with the applicable requirements of the SEC Portfolio Margining Order and the CFTC Portfolio Margining Order; and (c) each relevant FCM/BD Client is an “eligible contract participant” as defined in Section 1a(18) of the Commodity Exchange Act.<sup>10</sup>

- Section 7(c) of the Regulations, Operation, will provide that, following the Portfolio Margining Start Date, all FCM/BD Cleared Transactions that are SBS for the relevant FCM/BD Client will be treated as FCM/BD Portfolio Margining Transactions<sup>11</sup> and will be held (along with any associated Collateral) in the FCM/BD Swaps Client Account Structure on a commingled basis with FCM/BD Cleared Transactions that are Cleared Swaps for such FCM/BD Client. Further, all such FCM/BD Portfolio Margining Transactions will constitute Cleared Swaps for purposes of the CDS Clearing Rules and the resulting combined positions will be margined on a portfolio basis in respect of the relevant FCM/BD Client. Finally, this section will provide that the relevant FCM/BD Client will be deemed to acknowledge and agree that any property used to margin, guarantee or secure the FCM/BD Portfolio Margining Transactions will not receive customer protection treatment under the Securities Exchange Act (“Act”) or SIPA<sup>12</sup> and will instead receive customer protection treatment under the commodity broker liquidation provisions of the Code<sup>13</sup> and the rules and regulations promulgated thereunder.<sup>14</sup>

<sup>10</sup> This section further provides that, if LCH SA determines that an FCM/BD Clearing Member may participate in the Portfolio Margining Program on behalf of its FCM Client(s), it will advise the FCM/BD Clearing Member when such participation shall begin, which date is defined as the “Portfolio Margining Start Date”.

<sup>11</sup> The Definitions section of the Regulations will be amended to define an “FCM/BD Portfolio Margining Transaction” to mean an “FCM/BD Cleared Transaction that is an SBS and which is held in the FCM/BD Swaps Client Account Structure pursuant to the Portfolio Margining Program.

<sup>12</sup> The Definitions section of the Regulations defines SIPA to mean U.S. Securities Investor Protection Act of 1970, as amended.

<sup>13</sup> The Definitions section of the Regulations defines the Code to mean U.S. Bankruptcy Code, as amended.

<sup>14</sup> The purpose of this provision is to cause the FCM/BD Clearing Member to acknowledge that it

In addition to new Regulation 7, certain conforming changes will also be made to other sections of the Regulations. In particular, in the Definitions section of the Regulations, the definition of the LCH Cleared Swaps Client Segregated Depository Account will be amended to make clear that the account includes, where relevant, FCM/BD Portfolio Margining Transactions. Similarly, the definition of the LCH SBS Client Segregated Depository Account will be amended to make clear that the account excludes any FCM/BD Portfolio Margining Transactions.<sup>15</sup> Equivalent changes will be made to the relevant provisions of the Rule Book and Section 3 of the Procedures by adding a reference to the new defined term of “FCM/BD Portfolio Margining Transaction”, where needed.

Further, Article 6.2.1.1 (iii) of the Rule Book will be deleted. Article 6.2.1.1(iii) establishes the terms and conditions pursuant to which, prior to the compliance date for the final capital, margin, and segregation requirements for security-based swap dealers and the adoption of the SEC Portfolio Margining Order, an FCM/BD Clearing Member that is both an FCM and a BD was authorized to clear and hold FCM/BD Cleared Transactions that are SBS for FCM/BD Clients in the FCM/BD Swaps Client Account Structure on a commingled basis with Cleared Swaps.<sup>16</sup> With the implementation of

has complied with the SEC Portfolio Margining Order, which, *inter alia*, requires the FCM/BD to furnish to the FCM/BD Client a disclosure document containing the following information: (i) a statement indicating that the FCM/BD’s money, securities, and property will be held in an account maintained in accordance with the segregation requirements of Section 4d(f) of the Commodity Exchange Act and that the FCM/BD Client has elected to seek protections under Subchapter IV of Chapter 7 of Title 11 of the United States Code and the rules and regulations thereunder with respect to such money, securities, and property; and (ii) a statement that the broker-dealer segregation requirements of Section 15(c)(3) and Section 3E of the Exchange Act and the rules thereunder, and any customer protections under SIPA and the stockbroker liquidation provisions, will not apply to such FCM/BD Client.

<sup>15</sup> Specifically, an LCH SBS Client Segregated Depository Account will be defined in the Regulations to mean one or more accounts at one or more Banks which are commingled for purposes of the applicable provisions of the Exchange Act and SEC Regulations) maintained by LCH SA for the benefit of SBS Customers of its FCM/BD Clearing Members with a Bank, which is segregated in accordance with the Exchange Act and SEC Regulations and contains Collateral deposited by such FCM/BD Clearing Members on behalf of their SBS Customers in connection with FCM/BD Cleared Transactions that are SBS cleared for such SBS Customers by such FCM/BD Clearing Members, excluding any FCM/BD Portfolio Margining Transactions.

<sup>16</sup> See, *Order Granting Conditional Exemptions under the Securities Exchange Act of 1934 in Connection with Portfolio Margining of Swaps and*

the more comprehensive Portfolio Margining Program set out in Section 7 of the Regulations, Article 6.2.1.1 is unnecessary.

In addition, because LCH SA expects that all FCM/BD Clients will elect to portfolio margin all of their SBS transactions rather than maintain a separate FCM/BD SBS Client Segregated Depository Account,<sup>17</sup> Regulation 2(a) will be amended to provide that an FCM/BD Clearing Member will maintain an FCM/BD SBS Client Segregated Depository Account only if required,<sup>18</sup> and Regulation 2(b) will be amended to provide that LCH SA will establish an LCH SBS Client Segregated Depository Account<sup>19</sup> for an FCM/BD Clearing Member only upon request. Finally, Regulation 2(c) will be amended to confirm that all Collateral deposited with LCH SA by FCM/BD Clearing Members in connection with Cleared Swaps will include Collateral deposited in connection with FCM/BD Portfolio Margining Transactions and will be held in an LCH Cleared Swaps Segregated Depository Account.

Section 3 of the Procedures will also be revised in the expectation that all FCM/BD Clients will elect to portfolio margin their SBS transactions. Specifically:

- Section 3.3(b) will be revised to provide that LCH SA will maintain an FCM/BD SBS Client Collateral Account to record the Collateral held by LCH SA for the benefit of such FCM/BD Clearing

*Security-based Swaps*, Exchange Act Release No. 68433 (Dec. 12, 2012) 77 FR 75211 (Dec. 19, 2012).

<sup>17</sup> The Regulations define an FCM/BD SBS Client Segregated Depository Account to mean an omnibus account (which will consist of one or more accounts at one or more Banks which are commingled for purposes of the applicable provisions of the Exchange Act and SEC Regulations) maintained by an FCM/BD Clearing Member for its SBS Customers with a Bank, which is segregated in accordance with the Exchange Act and SEC Regulations and contains Collateral deposited by such SBS Customers in connection with FCM/BD Cleared Transactions that are SBS cleared for such SBS Customers by such FCM/BD Clearing Member, excluding any FCM/BD Portfolio Margining Transactions.

<sup>18</sup> Therefore, any reference to the FCM/BD SBS Client Segregated Depository Account in Section 3 of the Procedures will be preceded by the condition that such account is established.

<sup>19</sup> The Regulations define an LCH SBS Client Segregated Depository Account to mean an omnibus account (which will consist of one or more accounts at one or more Banks which are commingled for purposes of the applicable provisions of the Exchange Act and SEC Regulations) maintained by LCH SA for the benefit of SBS Customers of its FCM/BD Clearing Members with a Bank, which is segregated in accordance with the Exchange Act and SEC Regulations and contains Collateral deposited by such FCM/BD Clearing Members on behalf of their SBS Customers in connection with FCM/BD Cleared Transactions that are SBS cleared for such SBS Customers by such FCM/BD Clearing Members, excluding any FCM/BD Portfolio Margining Transactions.

Member's SBS Customers with respect to SBS only where required. Any reference to the FCM/BD SBS Client Collateral Account in Section 3 of the Procedures will be preceded by the condition that such account is established.

- Section 3.7(a)(ii)(z) will be revised to provide that LCH SA will maintain a TARGET2 Account to be used to make Collateral Calls in relation to the Client Margin Requirement(s) with respect to SBS only where required.<sup>20</sup>

- Section 3.7(b) will be revised to provide that an FCM/BD Clearing Member has an obligation to maintain a TARGET2 Account for the purposes of the Collateral Calls in respect of its Client Margin Requirement(s) with respect to SBS only where required. Any reference to such TARGET2 Account in Section 3 of the Procedures will be preceded by the condition that such account is established.

- Section 3.8(b) will be revised to provide that LCH SA will be required to maintain a USD account to credit USD Cash Collateral which is transferred by FCM/BD Clearing Members to be recorded in their FCM/BD SBS Client Collateral Account (the "LCH FCM/BD SBS Client USD Account") only where required. Any reference to the LCH FCM/BD SBS Client USD Account in Section 3 of the Procedures will be preceded by the condition that such account is established.

- Section 3.14 (a) will be revised to provide that LCH SA will be required, upon request, to maintain a segregated depository account in BNYM US' books to register BNYM US Eligible Collateral<sup>21</sup> which is transferred by FCM/BD Clearing Members in connection with SBS other than SBS that constitute FCM/BD Portfolio Margining Transactions (the "LCH SBS Client Depository Account"). Any reference to the LCH SBS Client Depository Account in Section 3 of the Procedures will be preceded by the condition that such account is established.

- A new Section 3.18(b)(y) will be added to provide that the FCM/BD Clearing Member will establish a TARGET2 Account for the purposes of the Collateral Calls in respect of its

Client Margin Requirement(s) with respect to SBS only where required. As noted earlier, LCH SA expects that all FCM/BD Clients will elect to portfolio margin all of their SBS transactions rather than maintain a separate FCM/BD SBS Client Segregated Depository Account. New Section 3.18(b)(y) confirms that LCH SA will not establish a TARGET2 Account with respect to SBS unless an FCM/BD Client does not elect to portfolio margin its SBS transactions.

- Section 3.18(c) will be revised to provide that an FCM/BD Clearing Member has an obligation to hold a Bank of New York Mellon ("BNYM") cash account for the purposes of satisfying its Cash Payments obligations in respect of its Client Cleared Transactions that are SBS only where required.<sup>22</sup>

Certain definitions set out in the Rule Book will also be revised, in each case, to recognize that FCM/BD Portfolio Margining Transactions, *i.e.*, FCM/BD Cleared Transactions that are SBS and that are held in the FCM/BD Swaps Client Account Structure pursuant to the Portfolio Margining Program established in new FCM/BD Regulation 7, will be treated as Cleared Swaps for all purposes and, as such, governed by new FCM/BD Regulation 7. As with Article 6.2.1.1(iii), discussed earlier, the current definitions were adopted to implement the structure in place prior to the compliance date for the final capital, margin, and segregation requirements for security-based swap dealers and the adoption of the SEC Portfolio Margining Order, pursuant to which an FCM/BD Clearing Member that is both an FCM and a BD is authorized to clear and hold FCM/BD Cleared Transactions that are SBS for FCM/BD Clients in the FCM/BD Swaps Client Account Structure on a commingled basis with Cleared Swaps. With the adoption of new FCM/BD Regulation 7, references to current definitions or Articles in the Rule Book are revised to reflect the Portfolio Margining Program.<sup>23</sup>

In particular:

- *Cleared Swap*. This definition currently provides that a Cleared Swap is an FCM/BD Cleared Transaction (i) constituting a Cleared Swap as defined in CFTC Regulation 22.1 or (ii)

constituting an SBS that is held in the FCM/BD Swaps Client Account Structure set out in Article 6.2.1.1(i) in pursuant to Article 6.2.1.1(iii). As revised, subparagraph (ii) of the definition will provide that a Cleared Swap is an FCM/BD Cleared Transaction "constituting an FCM/BD Portfolio Margining Transaction."

- *Cleared Swaps Customer*. This definition currently provides that a Cleared Swaps Customer is (i) a Cleared Swaps Customer, as defined in CFTC Regulation 22.1, of an FCM/BD Clearing Member with respect to Cleared Swaps, that is an eligible contract participant as defined in Section 1a(18) of the CEA, other than subparagraph (C) thereof, or as may be further defined by CFTC Regulations, and (ii) a person that would be a Cleared Swaps Customer, as defined in CFTC Regulation 22.1, of an FCM/BD Clearing Member with respect to any transaction constituting an SBS that is a Cleared Swap under the definition in this Section 1.1.1, as if such transaction is a Cleared Swap for purposes of the definition of Cleared Swaps Customer in CFTC Regulation 22.1. As revised, subparagraph (ii) of the definition will provide that a Cleared Swaps Customer is "a person that is treated as a Cleared Swaps Customer in connection with maintaining FCM/BD Portfolio Margining Transactions in the FCM/BD Swaps Client Account Structure of an FCM/BD Clearing Member pursuant to the Portfolio Margining Program."

- *Cleared Swaps Customer Collateral*. This definition currently provides that Cleared Swaps Customer Collateral is Cleared Swaps Customer Collateral, as defined in CFTC Regulation 22.1, with respect to Cleared Swaps, including with respect to any transaction constituting an SBS that is a Cleared Swap under the definition in Section 1.1.1, as if such transaction is a Cleared Swap for purposes of the definition of Cleared Swaps Customer Collateral in CFTC Regulation 22.1. As revised, this definition will provide that Cleared Swaps Customer Collateral is Cleared Swaps Customer Collateral, as defined in CFTC Regulation 22.1, with respect to Cleared Swaps, including with respect to any transaction constituting an SBS that is an FCM/BD Portfolio Margining Transaction.

- *FCM/BD Swaps Client Trade Account*. This definition currently provides that an FCM/BD Swaps Client Trade Account is an account opened by LCH SA in the name of an FCM/BD Clearing Member for the benefit of the Customer of such FCM/BD Clearing Member in order to register all Cleared Swaps (including any SBS that are held

<sup>20</sup> As defined in the Rule Book, TARGET2 is the system known as Trans-European Automated Real-time Gross Settlement Express Transfer 2. A TARGET2 Account is an account held by a TARGET2 participant in TARGET2 payment module with a Eurosystem Central Bank which is necessary for such TARGET2 participant to: (i) submit payment orders or receive payments via TARGET2; and (ii) settle such payments with such Eurosystem Central Bank.

<sup>21</sup> "BNYM US" and "BNYM US Eligible Collateral" are defined below.

<sup>22</sup> In each case, the revisions also make clear that the term "SBS" excludes SBS that constitute FCM/BD Portfolio Margining Transactions.

<sup>23</sup> In particular, references to Article 6.2.1.1(iii) have been removed. As noted earlier, with the implementation of the more comprehensive Portfolio Margining Program set out in Section 7 of the Regulations, Article 6.2.1.1 is unnecessary and is being deleted.

in the FCM/BD Swaps Client Account Structure as Cleared Swaps pursuant to Article 6.2.1.1(iii)) in relation to such FCM/BD Client). As revised, this definition will provide that an FCM/BD Swaps Client Trade Account is an account opened by LCH SA in the name of an FCM/BD Clearing Member for the benefit of the Customer of such FCM/BD Clearing Member in order to register all Cleared Swaps (including any SBS that constitute FCM/BD Portfolio Margining Transactions in relation to such FCM/BD Client).

- *FCM/BD SBS Client Collateral Account.* This definition currently provides, in relevant part, that an FCM/BD SBS Client Collateral Account is an account opened in the books of LCH SA to record the Collateral held by LCH SA for the benefit of an FCM/BD Clearing Member's SBS Customers with respect to FCM/BD Cleared Transactions that are SBS (excluding any SBS transactions held in the FCM/BD Swaps Client Account Structure as Cleared Swaps pursuant to Article 6.2.1.1(iii)). As revised, this definition will provide, in relevant part, that an FCM/BD SBS Client Collateral Account is an account opened in the books of LCH SA to record the Collateral held by LCH SA for the benefit of an FCM/BD Clearing Member's SBS Customers with respect to FCM/BD Cleared Transactions that are SBS (excluding any SBS that constitute FCM/BD Portfolio Margining Transactions).

- *FCM/BD SBS Client Financial Account.* This definition currently provides that an FCM/BD SBS Client Financial Account is a segregated account opened in the books of LCH SA for an SBS Customer of an FCM/BD Clearing Member with a view to record the Legally Segregated Value related to SBS (excluding SBS that are held in the FCM/BD Swaps Client Account Structure as Cleared Swaps pursuant to Article 6.2.1.1(iii)) of such FCM/BD Clearing Member's SBS Customer as determined by LCH SA in accordance with the CDS Clearing Rules. As revised, this definition will provide that an FCM/BD SBS Client Financial Account is a segregated account opened in the books of LCH SA for an SBS Customer of an FCM/BD Clearing Member with a view to record the Legally Segregated Value related to SBS (excluding SBS that constitute FCM/BD Portfolio Margining Transactions) of such FCM/BD Clearing Member's SBS Customer as determined by LCH SA in accordance with the CDS Clearing Rules.

- *FCM/BD SBS Client Margin Account.* This definition currently provides that an FCM/BD SBS Client

Margin Account is an account opened by LCH SA in the name of an FCM/BD Clearing Member for the benefit of each SBS Customer of such FCM/BD Clearing Member in the CDS Clearing System for risk management purposes, in which the SBS of the SBS Customers (excluding SBS that are held in the FCM/BD Swaps Client Account Structure as Cleared Swaps pursuant to Article 6.2.1.1(iii)) are netted and corresponding Open Positions are registered, and each FCM/BD Client related SBS positions (excluding SBS transactions that are held in the FCM/BD Swaps Client Account Structure as Cleared Swaps pursuant to Article 6.2.1.1(iii)) corresponding to Eligible Intraday Transactions and Irrevocable Backloading STM Transactions pre-registered in the Account Structure of such FCM/BD Clearing Member (if so applicable pursuant to Article 6.2.3.1) are recorded, in order to calculate the FCM/BD Client Margin Requirement and Client NPV Payment Requirement of such FCM/BD Clearing Member in respect of such SBS Customer. As revised, this definition will provide that an FCM/BD SBS Client Margin Account is an account opened by LCH SA in the name of an FCM/BD Clearing Member for the benefit of each SBS Customer of such FCM/BD Clearing Member in the CDS Clearing System for risk management purposes, in which the SBS of the SBS Customers (excluding SBS that constitute FCM/BD Portfolio Margining Transactions) are netted and corresponding Open Positions are registered, and each FCM/BD Client related SBS positions (excluding SBS transactions that constitute FCM/BD Portfolio Margining Transactions) corresponding to Eligible Intraday Transactions and Irrevocable Backloading STM Transactions pre-registered in the Account Structure of such FCM/BD Clearing Member (if so applicable pursuant to Article 6.2.3.1) are recorded, in order to calculate the FCM/BD Client Margin Requirement and Client NPV Payment Requirement of such FCM/BD Clearing Member in respect of such SBS Customer.

- *FCM/BD SBS Client Trade Account.* This definition provides that an FCM/BD SBS Client Trade Account is an account opened by LCH SA in the name of an FCM/BD Clearing Member for the benefit of an SBS Customer of such FCM/BD Clearing Member in order to register all SBS cleared by such FCM/BD Clearing Member (excluding SBS that are held in the FCM/BD Swaps Client Account Structure as Cleared Swaps pursuant to Article 6.2.1.1(iii)) in relation to such SBS Customer. As

revised, this definition will provide that an FCM/BD SBS Client Trade Account is an account opened by LCH SA in the name of an FCM/BD Clearing Member for the benefit of an SBS Customer of such FCM/BD Clearing Member in order to register all SBS cleared by such FCM/BD Clearing Member (excluding SBS that constitute FCM/BD Portfolio Margining Transactions) in relation to such SBS Customer.

#### b. Collateral/Accounts

As noted above, in addition to the proposed changes linked to the implementation of the Program described in paragraph a. above, the Proposed Rule Change will also amend certain provisions of the Rule Book and the Procedures regarding permitted Collateral (including Eligible Collateral and Eligible Currency<sup>24</sup>), the Client Collateral Buffer, and the release of Collateral to a Clearing Member. With regard to Eligible Collateral, Section 3 of the Procedures will be amended to replace any references to US Treasury Bills ("US T-Bills") by Eligible Collateral that may be held at the Bank of New York Mellon ("BNYM US") since there are also other securities, in addition to US T-Bills, that could be held with BNYM US. Section 3 will refer instead to "BNYM US Eligible Collateral" or "Eligible Collateral held at BNYM US", where appropriate.<sup>25</sup> With regard to Eligible Currency, Section 3.5 of the Procedures will be amended to provide that the Pound Sterling will no longer be an Eligible Currency for purposes of the FCM/BD Client Account Structure of an FCM/BD Clearing Member since LCH SA will not open an account for the purpose of depositing Cash Collateral under the form of Pound Sterling on behalf of FCM/BD Clients with a Permitted Depository as such term is defined in CFTC Regulations 22.1 and 22.4. As a

<sup>24</sup> "Eligible Collateral" is broadly defined in Article 1.1.1 of the Rule Book to mean such securities and other types of non-Cash Collateral as are set out in Section 3 of the Procedures as being acceptable by LCH SA for the purposes of satisfying a Clearing Member's Margin Requirements; "Eligible Currency" is defined to mean cash in such currencies as are set out in Section 3 of the Procedures as being acceptable by LCH SA as Cash Collateral.

<sup>25</sup> "BNYM US Eligible Collateral" is defined in Section 3.4(d) to mean Eligible Collateral that is acceptable to LCH SA to be held with BNYM US. Conforming changes replacing "US T-Bills" with "BNYM US Eligible Collateral" or, as the case may be, "Eligible Collateral held at BNYM US", are made in Sections 3.2, 3.4, 3.7, 3.8, 3.9, 3.11, 3.14, and 3.17. Notwithstanding the above, US T-Bills are currently the only Eligible Collateral permitted to be deposited at BNYM US. If LCH SA determines to add additional Eligible Collateral, it will amend the List of Eligible Securities by publication of a Clearing Notice pursuant to Section 3.9.

result, Eligible Currencies for FCM/BD Client Account Structure will be limited to the Euro which is held in an LCH SA's TARGET 2 Account opened with Banque de France and the U.S. Dollar ("USD") which is held in an LCH SA's account opened with BNYM US and Section 3.4(b) will be also amended for this purpose by permitting the transfer of non-Euro denominated Cash Collateral to be credited to LCH SA's accounts opened with Euroclear Bank in respect of the House Collateral Account and any Collateral Accounts of a CCM only (*i.e.* a clearing member that is not an FCM/BD Clearing Member). Indeed, LCH SA will not allow the transfer of Pound Sterling (included in the reference to "non-Euro denominated Cash Collateral") on behalf of FCM/BD Clients to be credited to an LCH SA's account opened with Euroclear Bank as it is not an eligible Permitted Depository within the meaning of CFTC Regulations 22.1 and 22.4.

Consequently, the provisions of Section 3.8(a) relating to the FCM/BD Swaps Client Non Euro Account and FCM/BD SBS Client Non Euro Account that should be opened in the name of LCH SA with Euroclear Bank will be removed as unnecessary.

The Proposed Rule Change will also make a number of changes with regard to rules governing the Client Collateral Buffer, including the FCM/BD Client Collateral Buffer.<sup>26</sup> The Client Collateral Buffer is the value of Collateral recorded as Client Collateral Buffer, which allows a Clearing Member to satisfy its margin requirements in respect of a Client Account Structure of that Clearing Member if there is no or insufficient Collateral held in the relevant Client Account Structure for the purpose of clearing a client trade leg. These changes regarding the Client Collateral Buffer first consist in revising Section 3.1 of Section 3 of the Procedures to expand the types of Collateral permitted to be held in the FCM/BD Client Collateral Buffer. Currently, an FCM/BD Clearing Member and a CCM may

<sup>26</sup> The FCM/BD Client Collateral Buffer's definition includes both the FCM/BD Swaps Client Collateral Buffer and the FCM/BD SBS Client Collateral Buffer. The FCM/BD Swaps Client Collateral Buffer is defined in the Rule Book to mean the aggregate value of Collateral transferred by an FCM/BD Clearing Member to LCH SA, comprising such FCM/BD Clearing Member's own property, and recorded in such FCM/BD Clearing Member's FCM/BD Swaps Buffer Financial Account which may be used by LCH SA to meet obligations in respect of the Cleared Swaps of Cleared Swaps Customers, including for the purpose of satisfying the Notional and Collateral Checks performed by LCH SA in respect of Eligible Intraday Transactions comprising one or more Client Trade Leg(s). The FCM/BD Swaps Client Collateral Buffer is similarly defined.

deposit only Euro to be maintained as Client Collateral Buffer. As amended, Section 3.1 will permit:

- an FCM/BD Clearing Member to maintain as FCM Client Collateral Buffer Cash Collateral, meaning Eligible Currencies which will be limited to the Euro and USD and Eligible Collateral which is securities that can be held at BNYM US, as set out in a list published by LCH SA on its website, that are acceptable by LCH SA to be registered in the FCM/BD Client Collateral Account;<sup>27</sup> and
- a CCM to maintain as CCM Client Collateral Buffer Cash Collateral, meaning Eligible Currencies which will be limited to the Euro, USD and GBP and Eligible Collateral in the form of securities that are acceptable by LCH SA, as set out in a list published by LCH SA on its website, that may be transferred by way of full title transfer on a bilateral basis or pursuant to a triparty arrangement<sup>28</sup> or by way of security interest under a Belgian law pledge.

Sections 3.7(f), 3.8(f), 3.8(g), 3.10, 3.15(a) and 3.17(a) of the Procedures, which describe how a Clearing Member may transfer each type of Collateral to LCH SA, will also be revised to refer specifically to the transfer of Euro-denominated cash, non-Euro denominated Cash Collateral, USD denominated Cash Collateral, Eligible Collateral provided with full title transfer, Pledged Eligible Collateral and BNYM US Eligible Collateral, respectively, to be maintained as Client Collateral Buffer, provided that such Clearing Member is permitted to maintain that type of Collateral as Client Collateral Buffer.<sup>29</sup>

As a consequence of the possibility to maintain Client Collateral Buffer with other type of Collateral than Euro Cash Collateral, the relevant provisions of the Rule Book<sup>30</sup> pursuant to which the

<sup>27</sup> As noted directly above, Eligible Currencies will be limited to the Euro and the USD and Eligible Collateral to Eligible Collateral held at BNYM US, in respect of an FCM/BD Client Account Structure.

<sup>28</sup> The possibility for a CCM to provide securities pursuant to triparty arrangement as Collateral to LCH SA is covered by a separate proposed rule change previously submitted to the SEC under the Filing No. SR-LCH SA-2023-004" which is still subject to SEC's approval. As noted above in footnote no. 1, the version of the Rule Book and Section 3 of the Procedures which includes the Proposed Rule Change also reflects this separate proposed rule change.

<sup>29</sup> Please refer to the previous paragraph which describes the type of Collateral accepted by LCH SA to be maintained as Client Collateral Buffer, depending on whether the Clearing Member is an FCM/BD Clearing Member or a CCM.

<sup>30</sup> Article 1.3.1.3(iv) of the Rule Book, Clauses 4.2.2(i), 8.1.3 and 8.5.2(a)(i) and (b)(i) of Appendix 1 (*CDS Default Management Process*) of the Rule

Allocated Client Collateral Buffer shall be transferred to the relevant CCM Client Collateral Account or, as the case may be, the relevant FCM/BD Client Financial Account in certain circumstances will need to be amended. Indeed, where LCH SA determines that there is insufficient Client Excess Collateral allocated to: (i) in the case of a CCM: the relevant CCM Client Account Structure; or (ii) in the case of an FCM/BD Clearing Member: the relevant FCM/BD Client Margin Account, to enable the novation of a client trade leg, an amount of the Available Client Collateral Buffer shall be "allocated" to: (a) in the case of a CCM: the relevant CCM Client Account Structure; or (b) in the case of an FCM/BD Clearing Member: the relevant FCM/BD Client Margin Account. Pursuant to the current provisions of the Rule Book, in the event of an Event of Default occurring in respect of a Clearing Member, LCH SA will: (i) if the Defaulting Clearing Member is a CCM, transfer an amount of Cash Collateral denominated in Euro which is equal to the CCM Allocated Client Collateral Buffer for the relevant CCM Client Account Structure from the CCM House Collateral Account to the relevant CCM Client Collateral Account; or (ii) if the Defaulting Clearing Member is an FCM/BD Clearing Member, transfer an amount of Collateral which is equal to the FCM/BD Allocated Client Collateral Buffer for the relevant FCM/BD Client Margin Requirement from the FCM/BD Buffer Financial Account to the relevant FCM/BD Client Financial Account. Since an amount of Collateral equal to the value of the CCM Allocated Client Collateral Buffer needs to be transferred from the House Collateral Account of a Defaulting Clearing Member that is a CCM to the relevant CCM Client Collateral Account, if the Client Collateral Buffer is to be maintained with Collateral other than Euro Cash Collateral, LCH SA will need first to liquidate into Euro Collateral other than Euro Cash Collateral to be able to transfer the relevant amount denominated in Euro from the House Collateral Account to the relevant CCM Client Collateral Account in accordance with the proposed amended Clause 4.2.2(i) of Appendix 1 (*CDS Default Management Process*) of the Rule Book. Equivalent changes need to be made to the provisions dealing with the transfer of an amount in Euro equivalent to the CCM Allocated Client Collateral Buffer

Book. We have taken the opportunity to remove the description of these circumstances from Section 2.3 (c) of the Procedures as it was redundant with the afore-mentioned provisions of the Rule Book.

of a CCM in the event of: (a) an Early Termination Trigger Date, in accordance with the proposed amended Clauses 8.5.2(a)(i) and (b)(i) of Appendix 1 (*CDS Default Management Process*) of the Rule Book; and (b) an LCH Default in accordance with the proposed amended Article 1.3.1.3(iv) of the Rule Book, save that under these circumstances, LCH SA will not be permitted to liquidate any Pledged Eligible Collateral taken into account in that CCM Client Collateral Buffer.

Finally, Section 2.3(d) of the Procedures will be revised to provide that a Clearing Member may set or update its House Excess Collateral Threshold and/or Client Collateral Buffer Threshold on the Business Day such request will be made, instead of the next Business Day to meet Clearing Members' expectations to be able to update their House Excess Collateral Threshold more quickly than is currently possible.

Further, the Proposed Rule Change will amend the Rule Book and the provisions of the Procedures by which an FCM/BD Clearing Member may increase the amount of Collateral held as FCM/BD Client Collateral Buffer<sup>31</sup> above the Collateral Buffer Threshold, *i.e.*, the minimum value of Collateral that an FCM/BD Clearing Member wishes to maintain as FCM/BD Client Collateral Buffer in the FCM/BD Buffer Financial Account that is part of the relevant FCM/BD Client Account Structure opened by LCH SA. In accordance with Chapter 2 of Title VI of the Rule Book, an FCM/BD Clearing Member may request LCH SA to open an FCM/BD Swaps Client Account Structure in which Cleared Swaps (including SBS that will constitute FCM/BD Portfolio Margining Transactions in accordance with the proposed amendments described in paragraph a. Portfolio Margining Program above) will be registered or an FCM/BD SBS Client Account Structure in which SBS (excluding SBS that will constitute FCM/BD Portfolio Margining Transactions in accordance with the proposed amendments described in paragraph a. Portfolio Margining Program above) will be registered. Each of these FCM/BD Client Account Structures currently includes, in particular:

- an FCM/BD Client Collateral Account in which all the Collateral held on behalf of the relevant FCM/BD Clients is registered; a set of "financial accounts" in which the value of all the Collateral registered in the FCM/BD

<sup>31</sup> The definition of "FCM/BD Client Collateral Buffer" is set out in footnote no.23 above.

Client Collateral Account of that FCM/BD Client Account Structure is registered. Such set of financial accounts currently comprises:

- an FCM/BD Swaps Client Financial Account for each Cleared Swaps Customer, in respect of an FCM/BD Swaps Client Account Structure, in which the Legally Segregated Value<sup>32</sup> related to Cleared Swaps of such Cleared Swaps Customer, or an FCM/BD SBS Client Financial Account for each SBS Customer in respect of an FCM/BD SBS Client Account Structure, in which the Legally Segregated Value related to SBS (including SBS that will constitute FCM/BD Portfolio Margining Transactions in accordance with the proposed amendments described in paragraph a. Portfolio Margining Program above) of such SBS Customer;
- an FCM/BD Swaps Client Financial Account, in respect of an FCM/BD Swaps Client Account Structure, or an FCM/BD SBS Buffer Financial Account, in respect of an FCM/BD SBS Client Account Structure, in which the value of the Collateral recorded as FCM/BD Client Collateral Buffer is registered; and
- an FCM/BD Swaps Unallocated Client Collateral Financial Account, in respect of an FCM/BD Swaps Client Account Structure in which the value of FCM/BD Swaps Unallocated Client Excess Collateral is registered, or an FCM/BD SBS Client Excess Collateral Financial Account, in respect of an FCM/BD SBS Client Account Structure, in which the value of FCM/BD SBS Client Excess Collateral is registered.

The proposed revisions regarding the possibility for an FCM/BD Clearing Member to increase the amount of FCM/BD Client Collateral Buffer above the FCM/BD Client Collateral Buffer Threshold are being made to provide for the more efficient handling of Collateral held on behalf of FCM/BD Clients. Specifically:

- Article 4.2.2.3 of the Rule Book currently provides that only a CCM Clearing Member, and not an FCM/BD Clearing Member, may increase the amount of the Client Collateral Buffer.

<sup>32</sup> The Legally Segregated Value's definition is set out in Section 1.1.1 of the Rule Book which currently provide that it is, with respect to an FCM/BD Clearing Member, the value determined by LCH SA, at the times and in the manner set out in Section 2.2(f) of the Procedures, for each FCM/BD Client Margin Account of such FCM/BD Clearing Member, based on the aggregate value of the Collateral (excluding FCM/BD Client Collateral Buffer) transferred by such FCM/BD Clearing Member to LCH SA to meet such FCM/BD Clearing Member's FCM/BD Client Margin Requirement(s).

This Article will be amended to confirm that an FCM/BD Clearing Member may also increase the amount of Client Collateral Buffer above the Client Collateral Buffer Threshold.<sup>33</sup>

- Article 4.2.2.5 of the Rule Book currently provides that in the event the FCM/BD Margin Balance of an FCM/BD Client Financial Account exceeds the relevant FCM/BD Client Margin Requirement prior to the Morning Call or the value of the Collateral attributed to the FCM/BD Buffer Financial Account exceeds the FCM/BD Client Collateral Buffer Threshold, such amount of the excess, if related to Cleared Swaps, is reclassified as FCM/BD Swaps Unallocated Client Excess Collateral, as defined in Article 6.2.5.1 of the Rule Book, or, if related to SBS is reclassified as FCM/BD SBS Client Excess Collateral, and thereafter may be returned to the FCM/BD Clearing Member, or (y) recorded in the relevant FCM/BD Buffer Financial Account and further reclassified as FCM/BD Client Collateral Buffer, in each case in accordance with Section 3 of the Procedures and Section 6.2.5 of the Rule Book. The proposed amendments to Article 4.2.2.5 will consist in: (i) removing the reclassification of any value of the Collateral above the FCM/BD Client Collateral Buffer Threshold as FCM/BD Swaps Unallocated Client Excess Collateral, or FCM/BD SBS Client Excess Collateral, where appropriate, and (ii) providing the FCM/BD Clearing Member with the alternative of requesting the transfer of any FCM/BD Swaps Unallocated Client Excess Collateral, or FCM/BD SBS Client Excess Collateral, where appropriate, to the FCM/BD Buffer Financial Account and its reclassification as FCM/BD Client Collateral Buffer.

- Article 6.2.5.1(iv)(d) of the Rule Book currently provides that if a FCM/BD Clearing Member delivers Collateral to LCH SA on behalf of one or more FCM/BD Clients in an amount that would cause an FCM/BD Swaps Client Financial Account to contain FCM/BD Swaps Client Excess Collateral, then LCH SA may (i) reject the deposit, (ii) transfer the excess back to the Clearing Member, or (iii) accept the deposit and transfer the excess to the FCM/BD Swaps Unallocated Client Collateral Financial Account. In order to provide for more efficient handling of FCM/BD Swaps Client Excess Collateral and to place responsibility for the handling of

<sup>33</sup> Article 4.2.2.3 of the Rule Book further provides that transfers to the Client Collateral Buffer will be made in accordance with Section 2 and Section 3 of the Procedures.

such Collateral with the FCM/BD Clearing Member, Article 6.2.5.1(iv)(d) will be revised to provide that, upon the request of an FCM/BD Clearing Member, LCH SA will either (x) return FCM/BD Swaps Unallocated Client Excess Collateral to such FCM/BD Clearing Member, in accordance with the conditions set out in Section 3 of the Procedures; or (y) reclassify such FCM/BD Swaps Unallocated Client Excess Collateral as FCM/BD Swaps Client Collateral Buffer and record the value of such Collateral to the relevant FCM/BD Swaps Buffer Financial Account.<sup>34</sup> If the FCM/BD Clearing Member requests LCH SA to reclassify such FCM/BD Swaps Unallocated Client Excess Collateral as FCM/BD Swaps Client Collateral Buffer and record the value of such Collateral to the relevant FCM/BD Swaps Buffer Financial Account, the FCM/BD Clearing Member will be deemed to represent to LCH SA that such request reflects the true characterization of the Collateral held by LCH SA, including in particular that the Collateral is the property of the FCM/BD Clearing Member.<sup>35</sup> A reference to this request for reclassification will be added to Article 6.2.5.1(iv)(c) for consistency purposes. Article 6.2.5.1(iii)(c) will provide that any excess FCM/BD Swaps Client Collateral Buffer will be returned to the relevant FCM/BD Clearing Member upon request.

- Article 6.2.5.1(ii) of the Rule Book will be revised to provide that FCM/BD Swaps Unallocated Client Excess Collateral also includes any amounts transferred to the FCM/BD Swaps Unallocated Client Collateral Financial Account in accordance with Article 6.2.4.4(i). Further, in the event an FCM/BD Clearing Member delivers Collateral to LCH SA on behalf of one or more FCM/BD Clients in an amount that

<sup>34</sup> Article 6.2.5.1(iv)(d) of the Rule Book further provides that, upon making any request the FCM/BD Clearing Member will be deemed to represent and warrant that such request complies with CFTC Regulations and has been made by an authorized individual.

In this regard, LCH SA notes that, in accordance CFTC Rule 22.2, 17 CFR 22.2, an FCM/BD Clearing Member is permitted to commingle in a single account all Cleared Swaps Customer Collateral that it receives from, for, or on behalf of multiple Cleared Swaps Customers and, further, is required to maintain such portion of its own funds as may be necessary to assure that the assets of one Cleared Swaps Customer are not used to meet the obligations of another Cleared Swaps Customer. (This amount is known as the FCM/BD's residual interest.) By requesting LCH SA to reclassify FCM/BD Swaps Unallocated Client Excess Collateral as FCM/BD Swaps Client Collateral Buffer, the FCM/BD would be representing that such amount is a part of the FCM/BD's residual interest.

<sup>35</sup> The FCM/BD Clearing Member must further agree to provide such additional information as LCH SA may reasonably request for purposes of effecting the requested return or reclassification.

would cause an FCM/BD Swaps Client Financial Account to contain FCM/BD Swaps Client Excess Collateral, LCH SA will accept the deposit and immediately transfer the amount of such excess to the FCM/BD Clearing Member's FCM/BD Swaps Buffer Financial Account, whereupon it shall also become FCM/BD Swaps Client Collateral Buffer. The Article currently provides that LCH SA may also (a) reject the deposit or (b) immediately transfer the entire deposit or the amount of such excess back to the FCM/BD Clearing Member.

- Article 6.2.5.2 of the Rule Book establishes a procedure with regard to FCM/BD SBS Excess Collateral or FCM/BD SBS Client Collateral Buffer that parallels the procedures in Article 6.2.5.1 above with regard to FCM/BD Swaps Client Collateral. That is, if a FCM/BD Clearing Member delivers Collateral to LCH SA on behalf of one or more SBS Customers in an amount that would cause an FCM/BD SBS Client Financial Account to contain FCM/BD SBS Client Excess Collateral, the current rule provides that LCH SA may (i) reject the deposit, (ii) transfer the excess back to the Clearing Member, or (iii) accept the deposit and transfer the excess to the FCM/BD SBS Unallocated Client Collateral Financial Account. In order to provide for more efficient handling of FCM/BD SBS Client Excess Collateral and to place responsibility for the handling of such Collateral with the FCM/BD Clearing Member, Article 6.2.5.2(ii) will be revised to provide that LCH SA will accept the deposit and immediately transfer the amount of such excess to the FCM/BD Clearing Member's FCM/BD SBS Buffer Financial Account, whereupon it shall also become FCM/BD SBS Client Collateral Buffer.

The Proposed Rule Change will also amend various provisions of Section 3 of the Procedures to clarify the process by which a Clearing Member may request the return of Collateral. In particular:

- Section 3.7(g) of the Procedures currently describes the manner in which an FCM/BD Clearing Member may request the return of FCM/BD Swaps Unallocated Client Excess Collateral in the form of Euro-denominated Cash Collateral to the FCM/BD Clearing Member's Client Collateral Financial Account. This Article will be revised to establish the process by which an FCM/BD Clearing Member may request the release of Euro denominated Cash Collateral recorded in the FCM/BD Client Collateral Account and will provide that such Collateral may be released only if LCH SA determines that it will continue to hold Collateral

sufficient to cover the FCM/BD Client Requirement for each FCM/BD Client Margin Account and to satisfy the FCM/BD Clearing Member's Client Collateral Buffer Threshold.<sup>36</sup>

- Section 3.8(h) and Section 3.15 (b) of the Procedures extends the process by which a CCM may request the return of non-Euro denominated Cash Collateral to the return of non-Euro denominated Cash Collateral and Pledged Eligible Collateral, respectively, recorded as CCM Client Collateral Buffer in its CCM House Collateral Account.<sup>37</sup>

- Section 3.10.1(c) of the Procedures and Section 3.10.2(d) set out a similar process by which a CCM may request the return of Eligible Collateral transferred with full title, on a bilateral basis and pursuant to a triparty arrangement, respectively, recorded as CCM Client Collateral Buffer in its CCM House Collateral Account.

The Proposed Rule Change will also revise Section 3.18(b) and (c) of the Procedures to clarify the use of TARGET2 Accounts by LCH SA and its Clearing Members for satisfying Cash Payment obligations and/or Variation Margin Collateral Transfer obligations<sup>38</sup> in Euro, and the use of BNYM Accounts by LCH SA and its Clearing Members with regard to Cash Payments and/or the transfer of Variation Margin Collateral in USD. With regard to

<sup>36</sup> Section 3.8(i) and Section 3.17(b) set out a similar process by which an FCM/BD Clearing Member may request the release of USD denominated Cash Collateral and Eligible Collateral held at BNYM US, respectively, recorded in the FCM/BD Client Collateral Account.

<sup>37</sup> Because Section 3.5 of the Procedures will be amended to provide that the Pound Sterling will no longer be an Eligible Currency for purposes of the FCM/BD Client Account Structure of an FCM/BD Clearing Member, the provisions of Section 3.8(h) relating to the re-calculation of the Non-Euro Cash Collateral Value of an FCM/BD Swaps Unallocated Client Collateral recorded in the FCM/BD Swaps Unallocated Client Collateral Financial Account and the re-calculation of the Non-Euro Cash Collateral Value of an FCM/BD SBS Client Excess Collateral recorded in the FCM/BD SBS Client Excess Collateral Financial Account will be removed as unnecessary.

<sup>38</sup> A Cash Payment obligation is broadly defined in Section 1.1.1 of the Rule Book to mean any payment due by a Clearing Member to LCH SA, or due to be received by a Clearing Member from LCH SA. For FCM/BD Clearing Members, such Cash Payments include variation margin payments (because variation margin payments are treated as settlement). Variation Margin Collateral Transfer obligations are only relevant to CCM Clearing Members that treat variation margin as collateral rather than settlement. Section 3.18(a) of the Procedures further provides for a list of Cash Payment and Variation Margin Type which includes: CDS or Index Swaption-related payments (Initial Payment Amount, Fixed Amounts or as the case may be, Premium, cash amounts due upon the occurrence of Credit Events and cash amounts due in connection with an MTM change), Variation Margin, Price Alignment Interest, NPV Payment, Price Alignment Amount, Clearing House Adjustments, Fees and remuneration.

TARGET2 Accounts, Section 3.18(b) will be revised to provide that, for the purpose of making or receiving Cash Payments in Euro, LCH SA will use: (a) the LCH House TARGET2 Account to satisfy Cash Payments and/or Variation Margin Collateral Transfer obligations in Euro with respect to all relevant House Cleared Transactions of each Clearing Member; and (b) the LCH CCM Client TARGET2 Account for satisfying Cash Payments and/or Variation Margin Collateral Transfer obligations in Euro with respect to all relevant Client Cleared Transactions of each Clearing Member.

Section 3.18(b) will be further revised to provide that, with regard to an FCM/BD's Clearing Member's Client Cleared Transactions, LCH SA will use: (a) the FCM/BD Clearing Member's TARGET2 Account established for the purposes of the Collateral Calls in respect of its Client Margin Requirement(s) with respect to Cleared Swaps and FCM/BD Client Collateral Buffer Threshold will be used for the debits and credits made out the LCH CCM Client TARGET2 Account for the purposes of satisfying Cash Payments obligations regarding all relevant Client Cleared Transactions of that FCM/BD Clearing Member that are Cleared Swaps; and (b) the FCM/BD Clearing Member's TARGET2 Account established for the purposes of the Collateral Calls in respect of, where required, its Client Margin Requirement(s) with respect to SBS (excluding SBS that constitute FCM/BD Portfolio Margining Transactions) and FCM/BD Client Collateral Buffer Threshold will be used for the debits and credits made out the LCH CCM Client TARGET2 Account for the purposes of satisfying Cash Payments obligations regarding all relevant Client Cleared Transactions of that FCM/BD Clearing Member that are SBS (excluding SBS that constitute FCM/BD Portfolio Margining Transactions).

Section 3.7(d)(iii) will be amended to provide that, in respect of the FCM/BD Client Account Structure of an FCM/BD Clearing Member, there will be no aggregation of payments between Euro denominated Cash Payments and Euro denominated Cash Collateral transfers through TARGET2 since Euro denominated Cash Payments will be made by using the LCH CCM Client TARGET2 Account whereas the transfer of Euro denominated Cash Collateral will be made by using the LCH FCM/BD Swaps Client TARGET2 Account or, as the case may be, the LCH FCM/BD SBS Client TARGET2 Account. Further, and for the avoidance of doubt, with regard to the FCM/BD Clearing Members' Client Cleared Transactions: (x) the

FCM/BD Clearing Member's TARGET2 Account established for the purposes of the Collateral Calls in respect of its Client Margin Requirement(s) with respect to Cleared Swaps and FCM/BD Client Collateral Buffer Threshold will be used for the debits and credits made out the LCH CCM Client TARGET2 Account for the purposes of satisfying Cash Payments obligations regarding all relevant Client Cleared Transactions of that FCM/BD Clearing Member that are Cleared Swaps; and (y) the FCM/BD Clearing Member's TARGET2 Account established for the purposes of the Collateral Calls in respect of, where required, its Client Margin Requirement(s) with respect to SBS (excluding SBS that constitute FCM/BD Portfolio Margining Transactions) and FCM/BD Client Collateral Buffer Threshold will be used for the debits and credits made out the LCH CCM Client TARGET2 Account for the purposes of satisfying Cash Payments obligations regarding all relevant Client Cleared Transactions of that FCM/BD Clearing Member that are SBS (excluding SBS that constitute FCM/BD Portfolio Margining Transactions).

With regard to BNYM Accounts,<sup>39</sup> Section 3.18(c) will be revised to provide that, for the purpose of making or receiving Cash Payments and/or the transfer of Variation Margin Collateral in USD, LCH SA will maintain only two BNYM Accounts. One account will be used to debit or credit USD to satisfy Cash Payments and/or Variation Margin Collateral Transfer obligations in USD with respect to all relevant House Cleared Transactions of each Clearing Member (the "LCH House BNYM Account"); the second account will be used to debit or credit USD to satisfy Cash Payments and/or Variation Margin Collateral Transfer obligations in USD with respect to all relevant Client Cleared Transactions of each Clearing Member (the "LCH Client BNYM Account"). The provisions of Section 3.18(c) that currently require LCH SA to maintain (x) a cash account used to debit or credit USD to satisfy Cash Payments and/or Variation Margin Collateral Transfer obligations in USD with respect to all relevant Client Cleared Transactions of each CCM (the "LCH CCM Client BNYM Account"); (y) a cash account used to debit or credit USD to satisfy Cash Payments obligations in USD with respect to all relevant Client Cleared Transactions of each FCM/BD Clearing Member that are Cleared Swaps (the "LCH FCM/BD

Swaps Client BNYM Account"); and (z) a cash account used to debit or credit USD to satisfy Cash Payments and/or Variation Margin Collateral Transfer obligations in USD with respect to all relevant Client Cleared Transactions of each FCM/BD Clearing Member that are SBS (excluding SBS that are held in the FCM/BD Swaps Client Account Structure) (the "LCH FCM/BD SBS Client BNYM Account") will be removed.<sup>40</sup>

The references to the former time slot for the Cash Payments in respect of Client Variation Margin Requirements of an FCM/BD Clearing Member that is no longer exists will be deleted from Section 3.18(d) and Section 5.5 (step no.10) of the Procedures.

#### c. Miscellaneous Amendments

##### i. Time Reference

Article 1.2.8.1 of the Rule Book currently provides that where reference is made in the CDS Clearing Documentation to a time or deadline, it shall be understood to mean Central European Time (CET), unless otherwise stipulated in the CDS Clearing Documentation. For the sake of clarity and avoid any confusion on the time zone that LCH SA will follow, especially when Central European Summer Time (CEST) applies, this Section will be revised to provide that where reference is made in the CDS Clearing Documentation to a time or deadline, it shall be understood to mean Paris Time, unless otherwise stipulated in the CDS Clearing Documentation. As a result, all references to CET in the Procedures will be removed and Section 1.4 (*Timing*) of Parts A, B and C of the CDS Clearing Supplement to remove the reference to Central European Time and provide that any reference to a time of day herein shall be deemed to be a reference to the time zone as set out in Section 1.2.8 (*Time reference*) of the Rule Book unless otherwise provided herein.

Section 5.18 of the Procedures will be also amended to remove the provisions pursuant to which references to times and deadlines in this paragraph 5.18 are to London local time (being Greenwich Mean Time (GMT) or British Summer Time (BST) as applicable) unless otherwise specified because these provisions are not used in the absence of any reference to times or deadlines in this paragraph.

<sup>39</sup> As noted above, USD is the only Eligible Currency and US Treasury bills are the only Eligible Collateral held in BNYM accounts.

<sup>40</sup> As discussed above, LCH SA expects that all FCM/BD Clients will elect to portfolio margin their SBS transactions. Therefore, LCH SA does intend to maintain SBS related Client Accounts only if required.



## ii. Real Time Session

The Rule Book defines “Real Time Session” to mean the period commencing at the Start of Real Time and ending at the End of Real Time in respect of each Clearing Day. Start of Real Time (SoRT), in turn, is defined as the time as specified in a Clearing Notice. LCH SA will adopt a new Clearing Notice, which will provide that, unless notified otherwise:

- “Start of Real Time (SoRT)” means on each Clearing Day, the earlier of: (i) the time when all relevant Clearing Members have satisfied the Morning Call; and (ii) 09.05 (Paris time); and
- “End of Real Time” means 16.30 (New York time) on each Clearing Day.

Further, LCH SA may decide to change the Start of Real Time and/or the End of Real Time to a different time for operational or other reasons (including, but not limited to, on a Clearing Day that is a holiday in the United States). In such circumstances, the Clearing Members will be informed of the amended Start of Real Time and/or amended End of Real Time through service notification.<sup>41</sup> LCH SA will publish any amendments or modifications to the content of the Clearing Notice in an updated Clearing Notice.

## iii. Opening Hours

Article 2.3.3.5 of the Rule Book will be revised to provide that each Clearing Member shall ensure that appropriate personnel are available for communications with LCH SA during the Real Time Session, instead of Opening Hours. An equivalent change will be made to Section 5.1(c) of the Procedures pursuant to which LCH SA is open during the Real Time Session and the operations team of LCH SA will be available during the Real Time Session. The opening hours applicable to the customer technical helpdesk will be also removed from this Section. Consequently, the defined term “Opening Hours” will be removed from the definitions section of the Rule Book since it will be no longer used.

Finally, other minor amendments made for consistency purposes, or the sake of clarity, will be made to the Rule

Book, the Procedures and the Regulations. For instance, the definition of CCM in the Rule Book will be updated to replace the incorrect reference to FCM/BD Clearing Member by FCM/BD since a Clearing Member cannot be admitted as a CCM and an FCM/BD Clearing Member at the same time and the purpose of the reference to an FCM/BD in the definition of a CCM is to explain how an entity registered as an FCM and as a BD may be admitted as a CCM under the CDS Clearing Rules.

## d. Amendments to Liquidity Risk Modelling Framework

LCH SA is required to maintain certain levels of liquidity but given the CFTC segregation requirements applicable to derivative clearing organizations (DCOs), FCM/BD Clients’ funds should be considered segregated as they are not available resources to LCH SA in a default management context unless the liquidity requirement is driven by the FCM/BD Clearing Member of such FCM/BD Clients. As part of the effective coming onboarding process of FCM/BD Clearing Members, LCH SA will reflect these requirements by making a number of updates and adjustments to its Liquidity Risk Modelling Framework mainly specifying that resources received from FCM/BD Clearing Members on behalf on their FCM/BD Clients or securities resulting from investment of FCM/BD Clients’ funds are excluded from liquidity resources available unless the liquidity requirement is driven by the FCM/BD Clearing Member of such FCM/BD clients. Moreover, LCH SA is also updating its Liquidity Risk Modelling for the sake of clarity; such amendments are not strictly related to the FCM/BD related initiative.

In this regard:

- Section 1.1.1 (*Reminder of SA’s activities*) will be updated in respect of the description of product scope of CDSClear to provide that clearing activities relate to the clearing of US, Australia, Asia and sovereign index and single names CDS negotiated on OTC markets as well. This amendment has been made for the sake of clarity and it is not linked to the FCM/BD related initiative itself.

- Section 1.6.1 (*Liquidity Sources*) will provide that cash collateral posted by FCM/BD Clearing Members on behalf of their FCM/BD Clients or excess cash for FCM/BD Clients of FCM/BD Clearing Member(s) that can be generated on an intraday basis, as well as securities resulting from the investment of that cash are excluded from the available liquidity resources unless the liquidity need is generated by the FCM/BD

Clearing Member of such FCM/BD Clients. Moreover, it will be clarified that LCH SA has the right to consider available for liquidity purposes all the resources collected if deposited under the full title transfer regime. Since Collateral deposited by FCM/BD Clearing Members on behalf of their FCM/BD Clients is subject to a security interest, a footnote, which currently provides for the list of Collateral which is not transferred by way of full title transfer, will be amended to add a reference to Collateral received from FCM/BD Clients.

- Section 1.6.1.1 (*Collateral transfer to the 3G pool*) will be updated to reflect the fact that non-cash collateral deposited via a Single Pledged Account is a way to post Collateral for activities not limited to CDS related activities only and to provide that USD securities received from FCM/BD Clients would not be deposited via Full Title Transfer Accounts.

- Section 1.6.1.2 (*Assessment of assets’ liquidity*) will provide that LCH SA cannot rehypothecate non cash collateral collected from FCM/BD Clients to raise liquidity unless the FCM/BD Clearing Member of such FCM/BD clients is in default. The same treatment will also apply to securities resulting from FCM/BD Clients’ cash which has been invested.

- Section 1.6.1.3 (*Synthesis*) which consists in a table summarizing the liquidity sources, will be amended as follows:

- Cash and US non cash collateral received from FCM/BD Clearing Members on behalf of their FCM/BD Clients and excess cash for FCM/BD clients of FCM/BD clearing member(s) that can be generated on an intraday basis are excluded unless the liquidity requirement is driven by the FCM/BD Clearing Member of such FCM/BD Clients.
- Securities resulting from investment of FCM/BD Clients’ money cannot be used for liquidity purposes unless the liquidity requirement is driven by the FCM/BD Clearing Member of such FCM/BD Clients.

- The description of the liquidity need “Repayment of excess cash by members” in Section 4.1.2 (*Model inputs and Variable selection*) will be amended by adding a footnote specifying that Non Euro non cash securities in DKK, NOK, SEK, JPY, CHF, CAD, AUD are excluded from the liquidity resources to be consistent with the description in section 4.1.5. These amendments are made for consistency purposes and are not linked to the FCM/BD related initiative.

<sup>41</sup>This paragraph currently provides: If for any reason LCH SA is not able to start or end the Real Time Session at the times indicated above, or is required to start or end the Real Time Session otherwise than at the times indicated above, LCH SA may decide to change the Start of Real Time and/or the End of Real Time to a different time that will be communicated to the Clearing Members. In such exceptional case, the Start of Real Time and/or the End of Real Time shall be the time where the relevant service notification of the opening or the closing (as applicable) of the Real Time Session is sent.

Sections 4.1.2 (*Model inputs and Variable selection*) and 4.1.5 (*Model assumptions*) will be amended to provide that, when calculating the liquid resources available to be compared against the Operational Target<sup>42</sup> the cash received from the FCM/BD Clearing Members on behalf of their FCM/BD Clients is excluded. An equivalent change to the footnotes is made when computing the liquidity requirement relating to margin reduction and repayment of excess collateral for which the FCM/BD Clients' resources are excluded. Moreover in Section 4.1.5, paragraph c., a typographical error in the penultimate sentence will be amended.

- Sections 4.2.2 (*Model inputs and Variable selection*) and 4.2.4 (*Mathematical formula, derivation and algorithm, and numerical approximation*) will be amended to provide that in the calculation of the Liquidity Coverage Ratio (LCR) of the CCP the resources of FCM/BD Clients must be considered segregated and therefore unavailable for liquidity purposes unless the relevant FCM/BD Clearing Member is among the Cover 2 members assumed to be in default in the LCR. Also, in the case where an FCM/BD Clearing Member is among the Cover 2 the possibility to use the resource held on behalf of FCM/BD Clients for liquidity purposes is capped to the obligations of the FCM/BD Client.

- Sections 4.2.5.3 (*Stress scenario selection*) will be amended to refer to CDS Clear rather than CDS when describing the market stress scenario considered in the LCR. The amendment is made for consistency purposes and is not linked to the FCM/BD related initiative.

- Sections 4.3.2 (*Model inputs and Variable selection*) and 4.3.4 (*Mathematical formula, derivation and algorithm, and numerical approximation*) will specify that, in the calculation of the Liquidity Coverage Ratio (LCR) for the interoperable CCP, the resources held on behalf of FCM/BD Clients must be considered segregated and therefore unavailable for liquidity purposes.

In Appendix 6.3 (*Reminder of SA's sources of liquidity and related risk drivers*), two footnotes have been added to specify that cash held on behalf of FCM/BD Clients (allocated and in excess) is excluded unless the liquidity requirement is driven by the relevant FCM/BD Clearing Member. With respect

to the source of liquidity coming from Non-Euro non-cash collateral posted in full title transfer, a footnote has been added to specify that securities collateral collected from FCM/BD Clients is excluded unless the liquidity requirement is driven by an the relevant FCM/BD Clearing Member; the footnote has also been expanded by specifying that securities in DKK, NOK, SEK, CAD, AUD, CHF and JPY are excluded from the liquidity resources, which is an amendment not linked to the FCM/BD related initiative but made for consistency purposes. In the end, with respect to the liquidity source coming from the collateral of investment activity, a footnote will be added to specify that securities coming from FCM/BD Clients investment shall be excluded unless the relevant FCM/BD Clearing Member is in default.

With the exception of the above Proposed Rule Changes, no other change are required.

## 2. Statutory Basis

LCH SA has determined that the Proposed Rule Change is consistent with the requirements of Section 17A of the Act<sup>43</sup> and regulations thereunder applicable to it. In particular, Section 17A(b)(3)(F) of the Act provides, *inter alia*, that the rules of a clearing agency must be designed: (a) to promote the prompt and accurate clearance and settlement of derivative agreements, contracts, and transactions; (b) 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; (c) and, in general, to protect investors and the public interest.<sup>44</sup> Further, Commission Rule 17Ad-22(e)(21) requires a central counterparty ("CCP") that is involved in activities with a more complex risk profile, *e.g.*, that provides CCP services for security-based swaps, to maintain and enforce written policies and procedures reasonably designed, *inter alia*, to be efficient and effective in meeting the requirements of its participants and the markets it serves.<sup>45</sup>

As discussed above, the provisions of the Proposed Rule Change implementing the Portfolio Margining Program will authorize LCH SA to offer FCM/BD Clearing Members, on behalf of their FCM/BD Clients, the ability to elect to portfolio margin FCM/BD Cleared Transactions that are SBS with FCM/BD Cleared Transactions that are Cleared Swaps. The Regulations implementing the Program are designed

to ensure that the Program complies with the terms and conditions set out in the SEC Portfolio Margining Order and the CFTC Portfolio Margining Order. Among other requirements, these Orders ensure that all funds deposited with an FCM/BD Clearing Member to margin Portfolio Margin Transactions will be segregated in accordance with the requirements of Section 4d(f) of the Commodity Exchange Act<sup>46</sup> and the rules of the Commodity Futures Trading Commission thereunder.<sup>47</sup> Further, FCM/BD Clearing Members that provide FCM/BD Clients the ability to portfolio margin FCM/BD Cleared Transactions that are SBS with FCM/BD Cleared Transactions that are Cleared Swaps must acknowledge that, in accordance with the SEC Portfolio Margining Order, they have provided FCM/BD Clients a written disclosure to ensure that such FCM/BD Clients are aware that the funds deposited with FCM/BD Clearing Member to margin Portfolio Margining Transactions will not be held in accordance with the broker-dealer segregation requirements of Section 15(c)(3) and Section 3E of the Act<sup>48</sup> and the rules thereunder, and any customer protections under SIPA and the stockbroker liquidation provisions, will not apply.

By implementing a Portfolio Margining Program that complies with the terms and conditions of the SEC Portfolio Margining Order and the CFTC Portfolio Margining Order, the Regulations set out in the Proposed Rule Change will: (a) promote the prompt and accurate clearance and settlement of derivative agreements, contracts, and transactions by encouraging FCM/BD Clients to clear more transactions at LCH SA; (b) 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 allowing LCH SA to margin an FCM/BD Client's positions collectively rather than separately; (c) and, in general, protect investors and the public interest by accommodating the portfolio margining needs of market participants who must react quickly to dynamic market conditions, risk management and hedging requirements, and evolving portfolio compositions. As such, the Regulations are reasonably designed to be efficient and effective in meeting the requirements of LCH SA's participants and the markets it serves, within the meaning of Section 17A(b)(3)(F) of the Act and Commission Rule 17Ad-22(e)(21).

<sup>42</sup> The Operational Target represents the amount of liquidity to be held to satisfy the liquidity needs related to the operational management of the CCP in a stressed environment that does not lead to a member's default.

<sup>43</sup> 15 U.S.C. 78q-1.

<sup>44</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>45</sup> 17 CFR 240.17Ad-22(e)(21).

<sup>46</sup> 7 U.S.C. 6d(f).

<sup>47</sup> 17 CFR 22.2, 22.3.

<sup>48</sup> 15 U.S.C. 78o, 78c-5.

Other provisions of the Proposed Rule Change will: (a) amend the definition of Eligible Collateral to provide that the Pound Sterling will no longer be an Eligible Currency for purposes of the FCM/BD Client Account Structure of an FCM/BD Clearing Member; (b) expand the types of Collateral permitted to be held in the FCM/BD Client Collateral Buffer; (c) set out the process by which an FCM/BD Clearing Member may increase the amount of Collateral held in the FCM/BD Client Collateral Buffer above the Collateral Buffer Threshold; (d) set out the process by which a Clearing Member may request the return of Collateral; and (e) clarify the use of TARGET2 Accounts for satisfying Cash Payment obligations and/or Variation Margin Collateral Transfer obligations in Euro, and the use of BNYM Accounts with regard to Cash Payments and/or the transfer of Variation Margin Collateral in USD. The greater detail provided by these amendments will similarly: (x) promote the prompt and accurate clearance and settlement of derivative agreements, contracts, and transactions by allowing FCM/BD Clearing Members to exercise greater and more flexible control over Collateral in general and the Collateral Buffer specifically, which will better assure that the Clearing Member always have sufficient Collateral at LCH SA to meet its obligations; (y) assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible; (z) and, in general, protect investors and the public interest. These amendments, therefore, are reasonably designed to be efficient and effective in meeting the requirements of LCH SA's participants and the markets it serves, within the meaning of Section 17A(b)(3)(F) of the Act and Commission Rule 17Ad-22(e)(21).

As discussed above, LCH SA is also proposing to amend its Liquidity Risk Modelling Framework to address the CFTC segregation requirements applicable to FCMs and customers.<sup>49</sup> Specifically, the amended Liquidity Risk Modelling Framework will anticipate the effective onboarding process of FCMs and will permit LCH SA to take into account, in its liquidity monitoring process, the specific segregation requirements to ensure the customers funds protection of this category of clearing members which is fully consistent with the requirements of Section 17A(b)(3)(F) of the Act providing, inter alia, that the rules of a clearing agency must be designed: (b) 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; (c) and, in general, to protect investors and the public interest.<sup>50</sup>

LCH SA also believes that this proposed change is consistent with Exchange Act Rule 17Ad-22(e)(1)<sup>51</sup> that requires a covered clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to provide for a well-founded, clear, transparent, and enforceable legal basis for each aspect of its activities in all relevant jurisdictions. As described above, the Proposed Rule Change will be (i) ensuring that the Program complies with the terms and conditions set out by the CFTC and SEC in the US jurisdiction and (ii) taking into account the CFTC segregation requirements and investment restrictions applicable to FCMs' customer funds which constitutes a relevant and appropriate legal framework consistent with the requirements of Exchange Act Rule 17Ad-22(e)(1).<sup>52</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>53</sup> LCH SA does not believe the Proposed Rule Change would have any impact, or impose any burden, on competition. The Proposed Rule Change does not address any competitive issue. LCH SA operates an open access model, and the Proposed Rule Change will have no effect on this model.

#### *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 (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include file number SR-LCH SA-2023-005 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-2023-005. This file number should be included on the subject line if email 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 (<https://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 a.m. and 3:00 p.m. 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

<sup>49</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>51</sup> 17 CFR 240.17Ad-22(e)(1).

<sup>52</sup> 17 CFR 240.17Ad-22(e)(1).

<sup>53</sup> 15 U.S.C. 78q-1(b)(3)(I).

<sup>49</sup> 17 CFR 1.20.

withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to File Number SR-LCH SA-2023-005 and should be submitted on or before August 9, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>54</sup>

**J. Matthew DeLesDernier,**  
Deputy Secretary.

[FR Doc. 2023-15257 Filed 7-18-23; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-97892; File No. SR-NSCC-2023-006]

### Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Clearing Agency Model Risk Management Framework

July 13, 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 June 30, 2023, National Securities Clearing Corporation (“NSCC”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency. NSCC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act <sup>3</sup> and Rule 19b-4(f)(4) thereunder. <sup>4</sup> 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 consists of amends (*sic*) the Clearing Agency Model Risk Management Framework (“Framework”) of NSCC and its affiliates Fixed Income Clearing Corporation (“FICC,” a central counterparty, and together with NSCC, the “CCPs,” and the CCPs together with The Depository Trust Company (“DTC,”) the “Clearing Agencies”).<sup>5</sup> The

Framework was adopted by the Clearing Agencies to support their compliance with Rule 17Ad-22(e) (the “Covered Clearing Agency Standards”) under the Act,<sup>6</sup> and, in this regard, applies solely to models <sup>7</sup> utilized by the Clearing Agencies that are subject to the model risk management requirements set forth in Rules 17Ad-22(e)(4), (e)(6), and (e)(7) under the Act,<sup>8</sup> as described in greater detail below.<sup>9</sup>

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

In its filing with the Commission, the clearing agency 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

follow to identify, measure, monitor, and manage the risks associated with the design, development, implementation, use, and validation of quantitative models. The Framework is filed as a rule of the Clearing Agencies. See Securities Exchange Act Release Nos. 81485 (August 25, 2017), 82 FR 41433 (August 31, 2017) (SR-DTC-2017-008, SR-FICC-2017-014, SR-NSCC-2017-008) (“2017 Notice”); 88911 (May 20, 2020), 85 FR 31828 (May 27, 2020) (SR-DTC-2020-008, SR-FICC-2020-004, SR-NSCC-2020-008); 92379 (July 13, 2021), 86 FR 38143 (July 19, 2021) (SR-DTC-2021-013); 92381 (July 13, 2021), 86 FR 38163 (July 19, 2021) (SR-NSCC-2021-008); 92380 (July 13, 2021), 86 FR 38140 (July 19, 2021) (SR-FICC-2021-006); 94273 (February 17, 2022), 87 FR 10395 (February 24, 2022) (SR-DTC-2022-001); 94272 (February 17, 2022), 87 FR 10419 (February 24, 2022) (SR-NSCC-2022-001); and 94271 (February 17, 2022), 87 FR 10411 (February 24, 2022) (SR-FICC-2022-001) (collectively, the “MRMF Filings”).

<sup>6</sup> 17 CFR 240.17Ad-22(e). Each of DTC, NSCC and FICC is a “covered clearing agency” as defined in Rule 17Ad-22(a)(5) under the Act and must comply with Rule 17Ad-22(e).

<sup>7</sup> Pursuant to Section 3.1 (Model Inventory) of the Framework, the Clearing Agencies have adopted the following definition of “model”: “[M]odel” refers to a quantitative method, system, or approach that applies statistical, economic, financial, or mathematical theories, techniques, and assumptions to process input data into quantitative estimates. A “model” consists of three components: (i) an information input component, which delivers assumptions and data to the model; (ii) a processing component, which transforms inputs into estimates; and (iii) a reporting component, which translates the estimates into useful business information. The definition of model also covers quantitative approaches whose inputs are partially or wholly qualitative or based on expert judgment, provided that the output is quantitative in nature. See 2017 Notice, *supra* note 9. See also Supervisory Guidance on Model Risk Management, SR Letter 11-7 Attachment, dated April 4, 2011, issued by the Board of Governors of the Federal Reserve System and the Office of the Comptroller of the Currency, available at <https://www.federalreserve.gov/supervisionreg/srletters/sr1107a1.pdf>, page 3.

<sup>8</sup> 17 CFR 240.17Ad-22(e)(4), (e)(6) and (e)(7). References to Rule 17Ad-22(e)(6) and compliance therewith apply to the CCPs only and not to DTC because DTC is not a central counterparty.

<sup>9</sup> Capitalized terms used herein and not defined shall have the meaning assigned to such terms in the NSCC Rules, available at <http://www.dtcc.com/legal/rules-and-procedures.aspx>.

places specified in Item IV below. The clearing agency 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 of NSCC amends the Clearing Agency Model Risk Management Framework (“Framework”) of NSCC and its affiliates and Fixed Income Clearing Corporation (“FICC,” a central counterparty, and together with NSCC, the “CCPs,” and the CCPs together with The Depository Trust Company (“DTC”), the “Clearing Agencies”).<sup>10</sup> The Framework was adopted by the Clearing Agencies to support their compliance with Rule 17Ad-22(e) (the “Covered Clearing Agency Standards”) under the Act,<sup>11</sup> and, in this regard, applies solely to models <sup>12</sup> utilized by the Clearing Agencies that are subject to the model risk management requirements set forth in Rules 17Ad-22(e)(4), (e)(6), and (e)(7) under the Act.<sup>13</sup>

The proposed rule change would amend the Framework <sup>14</sup> to account for

<sup>10</sup> The Framework sets forth the model risk management practices that the Clearing Agencies follow to identify, measure, monitor, and manage the risks associated with the design, development, implementation, use, and validation of quantitative models. The Framework is filed as a rule of the Clearing Agencies. See Securities Exchange Act Release Nos. 81485 (August 25, 2017), 82 FR 41433 (August 31, 2017) (SR-DTC-2017-008, SR-FICC-2017-014, SR-NSCC-2017-008) (“2017 Notice”); 88911 (May 20, 2020), 85 FR 31828 (May 27, 2020) (SR-DTC-2020-008, SR-FICC-2020-004, SR-NSCC-2020-008); 92379 (July 13, 2021), 86 FR 38143 (July 19, 2021) (SR-DTC-2021-013); 92381 (July 13, 2021), 86 FR 38163 (July 19, 2021) (SR-NSCC-2021-008); 92380 (July 13, 2021), 86 FR 38140 (July 19, 2021) (SR-FICC-2021-006); 94273 (February 17, 2022), 87 FR 10395 (February 24, 2022) (SR-DTC-2022-001); 94272 (February 17, 2022), 87 FR 10419 (February 24, 2022) (SR-NSCC-2022-001); and 94271 (February 17, 2022), 87 FR 10411 (February 24, 2022) (SR-FICC-2022-001) (collectively, the “MRMF Filings”).

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

<sup>12</sup> *Supra* note 7.

<sup>13</sup> *Supra* note 8.

<sup>14</sup> Amending the Framework does not require any changes to the Rules, By-Laws and Organization Certificate of DTC (available at [http://www.dtcc.com/~media/Files/Downloads/legal/rules/dtc\\_rules.pdf](http://www.dtcc.com/~media/Files/Downloads/legal/rules/dtc_rules.pdf)) (the “DTC Rules”), the Rulebook of the Government Securities Division of FICC (available at [https://www.dtcc.com/~media/Files/Downloads/legal/rules/ficc\\_gov\\_rules.pdf](https://www.dtcc.com/~media/Files/Downloads/legal/rules/ficc_gov_rules.pdf)) (the “GSD Rules”), the Clearing Rules of the Mortgage-Backed Securities Division of FICC (available at [http://www.dtcc.com/~media/Files/Downloads/legal/rules/ficc\\_mbsd\\_rules.pdf](http://www.dtcc.com/~media/Files/Downloads/legal/rules/ficc_mbsd_rules.pdf)) (the “MBS Rules”), or the Rules & Procedures of NSCC (available at [http://www.dtcc.com/~media/Files/Downloads/legal/rules/nsc\\_rules.pdf](http://www.dtcc.com/~media/Files/Downloads/legal/rules/nsc_rules.pdf)) (the “NSCC Rules,” and collectively with the DTC Rules, GSD Rules, and MBS Rules, the “Rules”), because the

<sup>54</sup> 17 CFR 200.30-3(a)(12).

<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)(4).

<sup>5</sup> The Framework sets forth the model risk management practices that the Clearing Agencies