

Via CFTC Portal

9 September 2022

**Mr Christopher J. Kirkpatrick**  
**Office of the Secretariat**  
**Commodity Futures Trading Commission**  
**Three Lafayette Centre**  
**1155 21<sup>st</sup> Street NW**  
**Washington, DC 20581**

**Re:** LCH SA CDSClear Switch CCP Programme

Dear Mr. Kirkpatrick,

Pursuant to CFTC regulation §40.6(a), LCH SA ("**LCH SA**"), a derivatives clearing organization ("**DCO**") registered with the Commodity Futures Trading Commission (the "**CFTC**"), is submitting for self-certification an incentive fee programme offered to existing and new potential clearing members and clients of its CDSClear service (the "**Proposed Rule Change**").

This Proposed Rule Change is expected to be effective from 22 September 2022 however, in no event, will either be implemented earlier than 10 business days after the proposed changes are filed with the CFTC.

The text of the Proposed Rule Change is attached hereto as Appendix<sup>1</sup>.

**Part I: Explanation and Analysis**

Following an announcement made at the end of June by an alternate credit CCP that it would cease clearing all classes of CDS contracts by the end of March 2023,<sup>2</sup> but also in light of the upcoming extension of CDSClear products, LCH SA CDSClear expects a number of clients and clearing members of alternate credit CCPs to choose to move their CDS portfolios to LCH SA CDSClear.

In this context, the purpose of the Proposed Rule Change is for CDSClear to offer its Clearing Members or clients acting through a Clearing Member, who have, directly or through a Clearing Member as

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<sup>1</sup> Capitalised terms used but not defined herein (including in Annex to this document) shall have the meaning ascribed to them in the document entitled "CDS Clearing Rule Book" as published by LCH SA on its website and as amended from time to time.

<sup>2</sup> Circular C22/076 "*Cessation of clearing of CDS Contracts*" published by ICE Clear Europe on 30 June 2022 ([C22076.pdf \(theice.com\)](#))

applicable, signed up to the CCP Switch Programme<sup>3</sup> as specified in Appendix, the opportunity to move their cleared index and single name credit default swap (“CDS”) or Index Swaption transactions from alternate credit CCPs to LCH SA at no cost (the “**CCP Switch Programme**”).

## **Part II: Description of Rule Changes**

As detailed in the CDSClear Circular attached as Appendix and that will also be published on the LCH website, LCH SA CDSClear is proposing to implement the CCP Switch Programme that will be offered to all CDSClear Clearing Members and clients (the “**Switch Programme Participants**”) once effective.

The CCP Switch Programme will apply to all “Eligible Cleared Transactions” which include cleared transactions where there is no unlimited tariff available for the Switch Programme Participant or the cleared transaction would attract a non-zero clearing fee. This includes all CDS transactions for Select Members, but not Index Swaption transactions where an unlimited tariff is available. It includes all CDS transactions for clients of Clearing Members, but not Index Swaption transactions in 2022, where a full discount of client variable fees is being applied. It currently does not include any transactions for General Members. General Members have an unlimited tariff available for CDS apart from sovereign single names. Sovereign single names are subject to a full discount of clearing fees for General Members for 1 year from the go-live date. An unlimited tariff is available to General Members for Index Swaptions, which excludes these from being an Eligible Cleared Transaction also.

To assist Switch Programme Participants in efficiently closing positions at alternate credit CCPs and reopening the same positions at the LCH SA CDSClear service, LCH SA is proposing to allow Switch Programme Participants to complete these transactions for zero CCP clearing fees.

In order to facilitate this, LCH SA CDSClear would charge no clearing fees to enter into the Eligible Cleared Transaction on CDSClear, known as the “the CDSClear Transaction Leg” and would give a Credit Note for the Assumed Cost of entering into the Alternate CCP Transaction Leg.

The Credit Note would be applied to all non-CCP Switch Eligible Cleared Transactions of a Switch Programme Participant for a period of six (6) months beginning at the “Programme Entry Date”, mentioned in the relevant Switch Programme registration form provided to LCH SA. This will effectively make the CCP Switch free of any clearing fees at either CCP. At the end of the six months period, any unused portion of the Credit Note would be forfeited.

Fees for both the CCP Switch and any transactions which will have the Credit Note applied would be charged as normal, then rebated at the end of each month.

## **Part III: Core Principle Compliance**

LCH SA reviewed the introduction of the Proposed Rule Change against the requirements of Commission’s regulations and DCO Core Principles and has concluded that its compliance with all the requirements

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<sup>3</sup> Clearing Members and clients will be able to enter into the CCP Switch Programme by completing a written form.

and standards therein and in particular with the following principle and Commission's regulations including, but not limited to § 39.21 would not be adversely affected by this proposed fee change.

**DCO Core Principle L – Public Information.** LCH SA has determined that the Proposed Rule Changes are consistent with the DCOs requirements of CFTC Regulation 39.21 to make available publicly each clearing and other fee charged to Clearing Members. As usual, this proposed fee change will be publicly available on LCH website and the DCO will ensure that sufficient information is provided to market participants so that they can identify and evaluate accurately the fees associated with moving their positions and using the relevant clearing services. The webpage on CDS Clear fees will be updated with the proposed CCP Switch Programme set out in Appendix A once it becomes effective. As a result, LCH SA believes that this proposed change is consistent with the requirements of Core Principle L and Commission Rule 39.21(c).

**Part IV: Public Information**

LCH SA has posted a notice of pending certifications with the CFTC and a copy of the submission on LCH's website at: <https://www.lch.com/resources/rulebooks/proposed-rule-changes>

**Part V: Opposing Views**

There were no opposing views expressed to LCH SA by governing board or committee members, members of LCH SA that were not incorporated into the rule.

**Certification**

LCH SA hereby certifies to the CFTC, pursuant to the procedures set forth in the Commission regulation § 40.6, that attached changes submission complies with the Commodity Exchange Act, as amended, and the regulations promulgated there under.

Should you have any questions please contact me.



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**APPENDIX**

**LCH SA CDSClear Switch CCP Programme**

## APPENDIX

# CCP Switch Programme<sup>1</sup>

This document describes the conditions of an incentive fee programme that CDSClear, a Eurozone-based clearing service provided by LCH SA,<sup>2</sup> would like to offer to Switch Programme Participants<sup>3</sup> wishing to move their cleared transactions from other credit central counterparties (“CCPs”) (the “**LCH CDSClear CCP Switch Programme**”).

### Background

On 30 June 2022, a credit CCP published a circular notifying its clearing members that it had decided “to cease to act as a clearing house in relation to all classes of CDS Contracts currently cleared by [the credit CCP]”.<sup>4</sup> The clearing service in respect of credit default swaps (“CDS”) offered by this credit CCP is planned to end on 31 March 2023.

Within this context, CDSClear plans offer the LCH CDSClear CCP Switch Programme to facilitate this migration, available under the following conditions.

### LCH CDSClear CCP Switch Programme Description

To assist in reopening equivalent positions at LCH SA, within its CDSClear service, the LCH CDSClear CCP Switch Programme would allow Switch Programme Participants to do this CCP Switch for zero clearing fees.

Specifically, LCH SA will charge no clearing fee to enter into the CDSClear Transaction Leg and would give a Credit Note for the Assumed Cost of entering into the Alternate CCP Transaction Leg.

The Credit Note will then be applied to all Cleared Transactions other than CDSClear Transaction Legs from and including the Programme Entry Date to and including the Credit Note Expiry Date, effectively making the CCP Switch free of any fees at the relevant Alternate CCP and LCH SA through the CDSClear service.

From a billing standpoint, fees that should have been due for Cleared Transactions entered into with LCH SA in relation to the CDSClear service: (i) which are part of the CCP Switch; or (ii) to which the Credit Note applies will be charged to the relevant Clearing Member by LCH SA and then rebated at the end of each month.

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<sup>1</sup> Subject to regulatory review and approval process

<sup>2</sup> Referred to as the “*CDS Clearing Service*” within the meaning of the document entitled “*CDS Clearing Rule Book*” as published by LCH SA on its website and as amended from time to time.

<sup>3</sup> Capitalised terms used but not defined herein (including in Annex to this document) shall have the meaning ascribed to them in the document entitled “*CDS Clearing Rule Book*” as published by LCH SA on its website and as amended from time to time.

<sup>4</sup> Circular C22/076 “*Cessation of clearing of CDS Contracts*” published by ICE Clear Europe on 30 June 2022 ([C22076.pdf \(theice.com\)](https://theice.com/C22076.pdf)).

### Example 1 – CCP Switch Into Identical Position

Alternate CCP			CDSClear		
Buy/Sell Protection	Product	Notional	Buy/Sell Protection	Product	Notional
<b>Starting Client Position</b>					
Buy	iTraxx Europe S37 5Y	EUR 1bn			
Sell	iTraxx Europe Crossover S37 5Y	EUR 250m			
<b>Offsetting Client Positions Entered on Same Trade Date</b>					
Sell	iTraxx Europe S37 5Y	EUR 1bn	Buy	iTraxx Europe S37 5Y	EUR 1bn
Buy	iTraxx Europe Crossover S37 5Y	EUR 250m	Sell	iTraxx Europe Crossover S37 5Y	EUR 250m
Switch Credit: EUR 5 * (EUR 1bn + EUR 250m)/EUR 1m = EUR 6,250			Clearing Fees if not part of CCP Switch: EUR 4 * (EUR 1bn + EUR 250m)/EUR 1m = EUR 5,000  Clearing Fees charged: EUR 0		
<b>Ending Client Position</b>					
			Buy	iTraxx Europe S37 5Y	EUR 1bn
			Sell	iTraxx Europe Crossover S37 5Y	EUR 250m
<i>End client position at CDSClear is identical to the starting client position at the Alternate CCP</i>					

### Example 2 - CCP Switch via a Roll

Alternate CCP			CDSClear		
Buy/Sell Protection	Product	Notional	Buy/Sell Protection	Product	Notional
<b>Starting Client Position</b>					
Buy	iTraxx Europe S36 5Y	EUR 1bn			
Sell	iTraxx Europe Crossover S36 5Y	EUR 250m			
<b>Offsetting Client Positions Entered on Same Trade Date</b>					
Sell	iTraxx Europe S36 5Y	EUR 1bn	Buy	iTraxx Europe S37 5Y	EUR 1bn
Buy	iTraxx Europe Crossover S36 5Y	EUR 250m	Sell	iTraxx Europe Crossover S37 5Y	EUR 250m
Switch Credit: EUR 5 * (EUR 1bn + EUR 250m)/EUR 1m = EUR 6,250			Clearing Fees if not part of CCP Switch: EUR 4 * (EUR 1bn + EUR 250m)/EUR 1m = EUR 5,000  Clearing Fees charged: EUR 0		
<b>Ending Client Position</b>					
			Buy	iTraxx Europe S37 5Y	EUR 1bn
			Sell	iTraxx Europe Crossover S37 5Y	EUR 250m
<i>End client position at CDSClear rolls the starting client position at the Alternate CCP to a new series</i>					

## Annex: Definitions

**Alternate CCP** means either ICE Clear Europe, or ICE Clear Credit as appropriate.

**Alternate CCP Transaction Leg** means any trade leg cleared at an Alternate CCP that has the same:

- (a) (i) CDS Type, except for the index series and version and maturity date that could differ, in respect of a CDS index; (ii) CDS Type, except for the maturity date that could differ, in respect of a CDS single name; or (iii) the same Swaption Type in respect of an Index Swaption;
- (b) notional amount; and
- (c) trade date

as an offsetting CDSClear Transaction Leg and is entered into as part of a CCP Switch.

**Assumed Cost** means the fees that the Switch Programme Participant, or the relevant clearing member acting on behalf of such Switch Programme Participant as applicable, would be charged by the Alternate CCP for entering into the Alternate CCP Transaction Leg as calculated by LCH SA using information published on the Alternate CCP's website.

**CCP Switch** describes the process of entering into: (i) an Eligible Cleared Transaction at LCH SA through the CDS Clearing Service; and (ii) an offsetting position at an Alternate CCP.

**CDSClear Transaction Leg** means any trade leg of a Cleared Transaction entered into with LCH SA as part of a CCP Switch.

**Credit Note** means an offset in the fees charged by LCH SA, through its CDSClear service, for Cleared Transactions other than CDSClear Transaction Legs by the amount of Switch Credit.

**Credit Note Expiry Date** means the last calendar day of a six-month period starting on the Programme Entry Date.

**Eligible Cleared Transaction** means a Cleared Transaction where there is no unlimited tariff available for the Switch Programme Participant and the Cleared Transaction would attract non-zero clearing fee.<sup>5</sup>

**Programme Entry Date** means the calendar day on which the Switch Programme Participant enters into the LCH CDSClear CCP Switch Programme, being the first calendar day of the month as mentioned in the registration form duly completed, executed by the Clearing Member and returned to LCH SA.

**Switch Credit** means the sum of all Assumed Costs across all CCP Switches performed by the Switch Programme Participant between the Programme Entry Date and the Credit Note Expiry Date.

**Switch Programme Participant** means a Clearing Member or client, acting through a Clearing Member, who have, directly or through a Clearing Member as applicable, signed up to the LCH CDSClear CCP Switch Programme.

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<sup>5</sup> Fees published at <https://www.lch.com/services/cdsclear/fees>