

should be submitted on or before July 12, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

Eduardo A. Aleman,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-83451; File Nos. SR-LCH SA-2017-012 and SR-LCH SA-2017-013]

Self-Regulatory Organizations; LCH SA; Order Approving Proposed Rule Changes Related to LCH SA's Recovery and Wind Down Plans

June 15, 2018.

I. Introduction

On November 30, 2017, Banque Centrale de Compensation, which conducts business under the name LCH SA ("LCH SA"), filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change (LCH SA-2017-012) to adopt a recovery plan (the "RP"). The proposed rule change was published for comment in the **Federal Register** on December 19, 2017.³ On December 7, 2017, LCH SA filed with the Commission a proposed rule change (LCH SA-2017-013) to adopt a wind down plan ("WDP").⁴ The proposed rule change was published for comment in the **Federal Register** on December 19, 2017.⁵ On January 23, 2018, pursuant to Section 19(b)(2) of the Act,⁶ the Commission designated a longer period for Commission action on both proposed rule changes.⁷ On March 19, 2018 the Commission instituted proceedings under Section 19(b)(2)(B) of the Act⁸ to determine whether to

approve or disapprove the proposed rule changes.⁹ To date, the Commission has not received any comments on the proposed rule changes. For the reasons discussed below, the Commission is approving the proposed rule changes.

II. Description of the Proposed Rule Changes¹⁰

As a "covered clearing agency,"¹¹ LCH SA is required to, among other things, "establish, implement, maintain and enforce written policies and procedures reasonably designed to . . . maintain a sound risk management framework for comprehensively managing legal, credit, liquidity, operational, general business, investment, custody, and other risks that arise in or are borne by the covered clearing agency, which . . . includes plans for the recovery and orderly wind-down of the covered clearing agency necessitated by credit losses, liquidity shortfalls, losses from general business risk, or any other losses."¹² The Commission has previously clarified that it believes that such recovery and wind-down plans are "rules" within the meaning of Exchange Act Section 19(b) and Rule 19b-4 because such plans would constitute changes to a stated policy, practice or interpretation of a covered clearing agency.¹³ Accordingly, a covered clearing agency, such as LCH SA, must file its RP and WDP with the Commission.

A. The RP (LCH SA-2017-012)

LCH SA's RP seeks to maintain the continuity of critical services in times of extreme stress and to facilitate the recovery of LCH SA from such stress. In particular, the RP describes (i) the scenarios and triggers for initiating recovery measures; (ii) various recovery tools used in such recovery; and (iii) the governance framework for managing the RP. Each of those aspects of the RP are discussed in more detail below.

The scenarios that could necessitate the implementation of the RP include the default of one or more clearing members, liquidity shortfalls as a result of the default of an investment counterparty of LCH SA or any other investment losses resulting from

changes in the market value on the investments, a loss resulting from an event which impacts the critical services provided by LCH SA (e.g., failure in the provision of service by a third party), loss of critical contracts with exchanges, or the operational or financial failure of a financial market infrastructure such as an allied clearing house or trade repository.¹⁴

The default management process is used to re-establish a matched book and return to business as usual and therefore LCH SA considers it to be a recovery tool.¹⁵ When pre-funded resources, such as defaulter's margin, defaulter's default fund contributions, LCH SA's capital, and non-defaulters' default fund contributions, are no longer available to meet obligations due to member and non-member losses, the RP lists various measures and tools that LCH SA can use to return to business as usual.¹⁶ The RP is organized to discuss each tool according to the nature of the loss the tool is designed to address (e.g., clearing member default losses, liquidity shortfalls, operational, business, and investment risks). The RP also discusses the sequence in which these tools would be used and the relative strength of each.¹⁷

When pre-funded resources have been exhausted after a clearing member default, LCH SA can call a default fund assessment up to a cap, request voluntary payments from all non-defaulting members, and effectuate service closure.¹⁸ In the event such tools are unavailable, certain other business-as-usual tools, such as default fund additional margin, may enable LCH SA to collect additional resources.

In the event of a liquidity shortfall, LCH SA may use its central bank credit line to deposit securities received on behalf of defaulting clearing members and obtain liquidity.¹⁹ Other potential tools to manage a liquidity stress situation include limits with respect to illiquid collateral, the application of increased haircuts on certain types of collateral to incentivize the use of more liquid collateral, and specific liquidity margins.²⁰ LCH SA also could defer funding for the settlement platform for a limited period of time, but views this as a tool of last resort.²¹

For most investment, business, and operational losses, LCH SA can allocate

¹³ 17 CFR 200.30-3(a)(12).

¹⁴ 15 U.S.C. 78s(b)(1).

¹⁵ 17 CFR 240.19b-4.

¹⁶ Securities Exchange Act Release No. 34-82316 (Dec. 13, 2017), 82 FR 60246 (Dec. 19, 2017) (SR-LCH-SA-2017-012) ("Notice 012").

¹⁷ Capitalized terms used in this order but not defined herein have the same meanings specified in LCH SA's rules.

¹⁸ Securities Exchange Act Release No. 34-82317 (Dec. 13, 2017), 82 FR 60238 (Dec. 19, 2017) (SR-LCH-SA-2017-013) ("Notice 013").

¹⁹ 15 U.S.C. 78s(b)(2).

²⁰ Securities Exchange Act Release No. 34-82570 (Jan. 23, 2018), 83 FR 4088 (Jan. 29, 2018) (SR-LCH-SA-2017-012) and Securities Exchange Act Release No. 34-82571 (Jan. 23, 2018), 83 FR 4081 (Jan. 29, 2018) (SR-LCH-SA-2017-013).

²¹ 15 U.S.C. 78s(b)(2)(B).

⁹ Securities Exchange Act Release No. 34-82901 (March 19, 2018), 83 FR 12833 (March 23, 2018) (SR-LCH-SA-2017-012; SR-LCH-SA-2017-013).

¹⁰ The descriptions of the proposed rule changes are substantially excerpted from Notice 012 and Notice 013.

¹¹ The term "covered clearing agency" is defined in SEC Rule 17Ad-22(a)(5), 17 CFR 240.17Ad-22(a)(5).

¹² 17 CFR 240.17Ad-22(e)(3)(ii).

¹³ Standards for Covered Clearing Agencies, Securities Exchange Act Release No. 34-78961 (Sep. 28, 2016), 81 FR 70786, 70809 (Oct. 13, 2016).

¹⁴ See Notice 012, 82 FR at 60247.

¹⁵ *Id.*

¹⁶ *Id.* at 60249.

¹⁷ *Id.* at 60249-60250.

¹⁸ *Id.* at 60249.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

its capital surplus against losses.²² Further down the list of preferable recovery tools for non-clearing member defaults are the abilities to raise capital or utilize insurance meant to cover a specific operational risk event.²³ For any disruption or loss of a key third-party service provider, LCH SA would be able to exercise several contractual rights and maintains exit plans that are intended to safeguard the continuity of services.²⁴

The RP discusses the governance surrounding its creation, invocation, and operation.²⁵ LCH SA relies upon its existing governance forums for both the creation and on-going monitoring and operation of the RP. Specifically, the LCH SA Management Committee is responsible for the preparation of the RP and the monitoring and implementation of the recovery tools set forth in the RP.²⁶ The LCH SA Risk Committee reviews and makes a recommendation to the Board, which ultimately has the power to approve the RP.²⁷ However, before submission to the LCH SA Risk Committee, the RP is reviewed and validated by the Executive Risk Committee of LCH SA's parent company, LCH Group.²⁸

The Default Management Group is responsible for the management of clearing member defaults while all critical decisions are escalated and submitted to the LCH SA Default Crisis Management Team ("DCMT").²⁹ The triggering of recovery measures is subject to discussion in the DCMT and approval by the LCH SA CEO.³⁰

The management of non-clearing member events will vary based on the nature of the event.³¹ For example, investment losses and liquidity shortfalls are managed by the departments responsible for controlling such risks within the parameters set by the Board.³² Similarly, operational risks are managed by each business line in accordance with the operational risk policy approved by the Board.³³ Business risk is managed by individual business lines, with a second line challenge performed by the risk and finance departments to verify if sufficient capital buffers are available

for the applicable business risks.³⁴ Matters are escalated to the Management Committee when the RP is triggered and the LCH SA Board will approve implementation of the RP.³⁵

B. The WDP (LCH SA–2017–013)

In the event a recovery is not successful, LCH SA would invoke its WDP to wind down its operations to full service closure in an orderly manner, thereby minimizing the disruption to clearing members, market participants, and the broader financial system. The WDP would be triggered after a determination by the LCH SA Board that all the recovery tools have been exhausted and have failed to return LCH SA to business as usual.³⁶ A voluntary wind-down not precipitated by these extreme events is not considered under the WDP.³⁷ The WDP would set forth clear mechanisms for the transfer of LCH SA's membership and business, and would be designed to facilitate continued access to critical services and to minimize market impact.³⁸

The decision to wind down would be taken by the Board and ultimately the LCH SA shareholders, upon advice of the Executive Risk Committee and Local Management Committee ("LMC").³⁹ The LMC or DCMT would monitor the implementation of the WDP.⁴⁰ LCH SA would consult with all relevant regulatory authorities before making a decision to wind down and, unless all clearing services have already been closed, the French *Autorité de Contrôle Prudentiel et de Résolution* ("ACPR") would have to approve such a decision.⁴¹ LCH SA would also keep relevant regulatory authorities regularly informed of the plan's implementation.⁴² If LCH SA was in resolution at the time, the relevant regulatory authority governing the resolution of LCH SA would need to make the decision to wind-down.⁴³

The WDP assumes that LCH SA's businesses would be wound down until full closure, including the closure of all its business lines at the same time.⁴⁴ This is a worst case assumption, however, and the WDP acknowledges that it is likely that in the phases preceding the decision to wind-down,

some business lines will have been closed, transferred, or scaled down.⁴⁵

The WDP provides that LCH SA would publish written notice to the clearing members that a wind-down event has occurred and potential dates by which transactions will no longer be accepted for clearing.⁴⁶ In a non-default situation or in a situation where the corresponding business line is still active, LCH SA would attempt to give clearing members the maximum time necessary to clear transactions in the normal course, close-out positions, and switch to another central counterparty.⁴⁷

In line with the RP, the WDP describes the functions of LCH SA and distinguishes critical functions that LCH SA provides to the market (all of LCH SA's clearing functions are considered critical); services that are critical to the support of LCH SA's critical functions (such as IT, risk, operations, and collateral and risk management); and non-critical support functions (such as finance, legal, and human resources). The WDP then provides detail about the closure of these functions. For instance, the treasury function would close once all clearing services have ceased and monies are paid by LCH SA and its members.⁴⁸ Further, once the WDP is implemented, LCH SA would deposit remaining cash in central bank accounts or invest the cash in instruments with maturities no longer than same-day repos.⁴⁹ LCH SA would keep active any other supporting operational, information technology, or risk functions until all positions are closed.⁵⁰ Finally, the WDP describes the closure of LCH SA's clearing services and provides citations to the various clearing services' rule book provisions giving a legal basis for the actions taken to effectuate the WDP.⁵¹

The WDP further notes that LCH SA's contractual agreements with third-party service providers, such as information technology or venue providers, contain wind-down provisions that permit LCH SA to exit the agreements under particular conditions.⁵²

Separately from the WDP, but in line with the processes and timeline described in the WDP, LCH SA calculates the costs required for a wind down. These costs encompass staff salaries, indemnities for staff departure,

²² *Id.*

²³ See Notice 012, 82 FR at 60249.

²⁴ *Id.* at 60250.

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ Notice 013, 82 FR at 60239.

³⁷ *Id.*

³⁸ *Id.* at 60239–60240.

³⁹ *Id.* at 60239.

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.* at 60239–60240.

⁴⁷ *Id.* at 60240.

⁴⁸ *Id.* at 60240.

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

costs to be paid to suppliers during notice periods, and all foreseeable costs that would be due in the event of a wind-down.⁵³ Based on these calculations, the WDP concludes that these costs would be less than the capital LCH SA holds under EU regulations (capital equal to the operating expenses for a six (6) month period) and that LCH SA would be in a position to close the company within six months of the decision to wind-down.⁵⁴

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization.⁵⁵ For the reasons given below, the Commission finds that the proposed rule changes are consistent with Section 17A(b)(3)(F) of the Act⁵⁶ and Rules 17Ad–22(e)(2)(i), (iii), and (v), 17Ad–22(e)(3)(ii), and 17Ad–22(e)(15)(i)–(ii) thereunder.⁵⁷

A. Consistency With Section 17A(b)(3)(F) of the Act

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of LCH SA be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, as well as to assure the safeguarding of securities and funds which are in the custody or control of LCH SA or for which it is responsible, and, in general, to protect investors and the public interest.⁵⁸

As described above, the RP would specify the steps that LCH would take in recovery and the governance framework applicable to taking such steps. It would analyze the anticipated impact of the recovery tools, the incentives created by such tools, and the risks associated with using such tools. It would also explain how the tools used in the plan are transparent, measurable, manageable, and controllable. The Commission believes that by specifying the steps LCH SA would take and the tools it would use to bring about recovery in the face of losses, the RP

would increase the likelihood that recovery would be orderly, efficient, and successful. In increasing the likelihood that recovery of LCH SA would be orderly, efficient, and successful, the Commission believes that the RP would enhance LCH SA's ability to maintain the continuity of its critical services (including clearance and settlement services) during, through, and following periods of extreme stress giving rise to the need for recovery, thereby promoting the prompt and accurate clearance and settlement of CDS transactions. The Commission also believes that the RP would help assure the safeguarding of securities or funds in the custody or control of LCH SA by reducing the likelihood of a disorderly or unsuccessful recovery, which could otherwise disrupt access to such securities or funds. For the same reason, the Commission also believes the RP would be consistent with the protection of investors and the public interest.

Similarly, the Commission believes that the WDP would enhance LCH SA's ability to promote the prompt and accurate clearance and settlement of securities transactions and to safeguard securities and funds in its control by establishing a plan to effectuate an orderly wind down. Specifically, the WDP's governance process and notice provisions would facilitate the orderly close-out of positions and potential transfer of positions to other central counter parties. Therefore, the Commission believes that these provisions would enhance LCH SA's ability to maintain and continue the prompt and accurate clearance and settlement of CDS transactions by assuring that such transactions are closed-out and transferred to other central counterparties in an orderly and transparent manner. Moreover, by specifying in advance the steps LCH SA would take in a wind down, the WDP would assure an efficient and orderly wind down of LCH SA. The Commission believes that this, in turn, would assure the safeguarding of securities or funds in the custody or control of LCH SA by reducing the likelihood of an inefficient or disorderly wind down, which could disrupt access to such securities or funds. Finally, the Commission believes that the WDP's requirement that LCH SA deposit remaining cash in central bank accounts and limit investment options to short term highly-liquid instruments would further enhance LCH SA's ability to safeguard funds in its control by reducing the risk of liquidity constraints and investment losses during a wind down.

Therefore, the Commission finds that the proposed rule changes would promote the prompt and accurate clearance and settlement of securities transactions, assure the safeguarding of securities and funds in LCH SA's custody and control, and, in general, protect investors and the public interest, consistent with the Section 17A(b)(3)(F) of the Act.⁵⁹

B. Consistency With Rules 17Ad–22(e)(2)(i), (iii), and (v)

Rules 17Ad–22(e)(2)(i), (iii), and (v) require that LCH SA establish, implement, maintain, and enforce written policies and procedures reasonably designed to provide for governance arrangements that are clear and transparent, that support the public interest requirements in Section 17A of the Act applicable to clearing agencies, and the objectives of owners and participants, and that specify clear and direct lines of responsibility.⁶⁰

The RP would identify clear lines of responsibility for its preparation and final approval, the monitoring of its use, and the functioning of the recovery tools. The RP would also specify the process LCH SA would take to receive input from various parties at LCH SA, including management committees and the Board. Further, the RP would enhance transparency by including member representatives in the review of the RP. The Commission believes that these lines of control and input from various LCH SA stakeholders can contribute to establishing, implementing, maintain and enforcing clear and transparent governance arrangements that support the public interest requirements in Section 17A of the Act applicable to clearing agencies, and the objectives of owners and participants.

The WDP similarly would identify clear lines of responsibility for the invocation, monitoring, and approval of the WDP, and ultimately, a wind down. It would enhance transparency by requiring final approval by the LCH SA shareholders and providing for communication to clearing members and other users of LCH SA's services. The Commission believes that both of these features of the WDP would represent clear and transparent governance arrangements.

Therefore, the Commission finds that the proposed rule changes would establish clear and transparent governance arrangements for the RP and WDP,

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ 15 U.S.C. 78s(b)(2)(C).

⁵⁶ 15 U.S.C. 78q–1(b)(3)(F).

⁵⁷ 17 CFR 240.17Ad–22(e)(2)(i), (iii), and (v); (e)(3)(ii); (e)(15)(i)–(ii).

⁵⁸ 15 U.S.C. 78q–1(b)(3)(F).

⁵⁹ 15 U.S.C. 78q–1(b)(3)(F).

⁶⁰ 17 CFR 240.17Ad–22(e)(2)(i), (iii), and (v).

consistent with Rules 17Ad–22(e)(2)(i), (iii), and (v).⁶¹

C. Consistency With Rule 17Ad–22(e)(3)(ii)

Rule 17Ad–22(e)(3)(ii) requires that LCH SA establish, implement, maintain and enforce written policies and procedures reasonably designed to maintain a sound risk management framework for comprehensively managing legal, credit, liquidity, operational, general business, investment, custody, and other risks that arise in or are borne by LCH SA, which includes plans for the recovery and orderly wind-down of LCH SA necessitated by credit losses, liquidity shortfalls, losses from general business risk, or any other losses.⁶²

The Commission believes that the information the RP would provide about the steps that LCH SA would take, and the tools it would use, to effectuate a recovery of LCH SA would enhance LCH SA's ability to recover from credit losses, liquidity shortfalls, general business risk losses, or other losses, consistent with Rule 17Ad–22(e)(3)(ii).⁶³ Specifically, the information from the RP would enable LCH SA to prepare in advance for the use of such tools and practice the use of such tools, which would in turn enhance LCH SA's ability to use such tools effectively to carry out a successful recovery. In addition, by establishing a single source of information about, and steps needed to effectuate, a recovery of LCH SA, the RP would allow LCH SA personnel to effectuate a recovery in a consistent and coordinated fashion, and would thereby increase the likelihood of a successful recovery. Moreover, by identifying and assessing available recovery tools, the Commission believes that the RP would enhance LCH SA's ability to use such tools effectively to bring about a recovery by identifying in advance which tools may be most effective for different situations or needs, consistent with Rule 17Ad–22(e)(3)(ii).⁶⁴

Similarly, in providing detailed information about the governance requirements related to triggering and implementing the WDP discussed in more detail above, the Commission believes that the WDP would enhance LCH SA's ability to effectuate an orderly wind-down, consistent with Rule 17Ad–22(e)(3)(ii).⁶⁵ Specifically, by setting out in advance the steps LCH SA would

take to trigger and effectuate a wind-down, the WDP would enable LCH SA to prepare in advance for a wind-down, and practice the steps needed to effectuate a wind-down, which the Commission believes would enhance LCH SA's ability to use the WDP effectively to carry-out an orderly wind-down. In addition, by establishing a single source of information about, and steps needed to effectuate, a wind-down of LCH SA, the Commission believes the WDP would allow LCH SA personnel to effectuate a wind-down in a consistent and coordinated fashion, and would thereby increase the likelihood of an orderly wind-down. Finally, the WDP would identify the legal basis for LCH's actions with respect to a potential wind-down, including relevant citations to provisions of the rule books of its various clearing services and contractual agreements, which the Commission believes would further facilitate a well-reasoned, legal, and orderly wind-down process by providing LCH SA with a single source of information and steps needed for a wind-down, consistent with Rule 17Ad–22(e)(3)(ii).⁶⁶

Therefore, the Commission finds that the proposed rule changes would be plans for the orderly recovery and wind down of LCH SA, consistent Rule 17Ad–22(e)(3)(ii).⁶⁷

D. Consistency With Rules 17Ad–22(e)(15)(i)–(ii)

Rules 17Ad–22(e)(15)(i)–(ii) require LCH SA to establish, implement, maintain and enforce written policies and procedures reasonably designed to identify, monitor, and manage its general business risk and hold sufficient liquid net assets funded by equity to cover potential general business losses so that LCH SA can continue operations and services as a going concern if those losses materialize, including by (i) determining the amount of liquid net assets funded by equity based upon its general business risk profile and the length of time required to achieve a recovery or orderly wind-down, as appropriate, of its critical operations and services if such action is taken and (ii) holding liquid net assets funded by equity equal to the greater of either (x) six months of the LCH SA's current operating expenses, or (y) the amount determined by the board of directors to be sufficient to ensure a recovery or orderly wind-down of critical operations and services.⁶⁸

LCH SA's RP would include a quantitative assessment of the situations that could necessitate a recovery and related recovery tools. This quantitative assessment would consider the potential impact to LCH SA's liquid net assets funded by equity, including its surplus capital. It would also include an assessment of the time to implement the various recovery tools. Thus, the Commission finds that the RP would indicate the potential cost and length of recovery, consistent with Rules 17Ad–22(e)(15)(i)–(ii).⁶⁹

Similarly, LCH SA's WDP would calculate costs related to a wind down. These costs would include staffing, technological, facilities, legal, and other resources necessary during the actual wind-down period. Further, the WDP concludes, based on recently audited amounts, that LCH SA would hold highly liquid resources corresponding to six months of operating expenses and that this amount would exceed the estimated costs of conducting a wind-down. The WDP also concludes that the length of time it would take LCH SA to wind-down and close clearing services would be six months from the decision to wind-down. Thus, the Commission finds that the WDP would indicate LCH SA's ability to effectuate a wind down within six months of the decision to wind-down at a lower cost than the amount of its liquid resources, consistent with Rules 17Ad–22(e)(15)(i)–(ii).⁷⁰

Therefore, the Commission finds that the proposed rule changes would determine the length of time required to achieve a recovery or orderly wind-down of LCH SA and the associated costs and would further ensure that LCH SA holds liquid net assets greater than these costs, consistent with Rules 17Ad–22(e)(15)(i)–(ii).⁷¹

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule changes are consistent with the requirements of the Act, and in particular, Section 17A(b)(3)(F) of the Act⁷² and Rules 17Ad–22(e)(2)(i), (iii), and (v), 17Ad–22(e)(3)(ii), 17Ad–22(e)(15)(i)–(ii) thereunder.⁷³

It is therefore ordered pursuant to Section 19(b)(2) of the Act that the proposed rule change (SR–LCH SA–

⁶¹ 17 CFR 240.17Ad–22(e)(2)(i), (iii), and (v).

⁶² 17 CFR 240.17Ad–22(e)(3)(ii).

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ 17 CFR 240.17Ad–22(e)(15)(i)–(ii).

⁶⁹ 17 CFR 240.17Ad–22(e)(15)(i)–(ii).

⁷⁰ 17 CFR 240.17Ad–22(e)(15)(i)–(ii).

⁷¹ 17 CFR 240.17Ad–22(e)(15)(i)–(ii).

⁷² 15 U.S.C. 78q–1(b)(3)(F).

⁷³ 17 CFR 240.17Ad–22(e)(2)(i), (iii), and (v); (e)(3)(ii); (e)(15)(i)–(ii).

2017–012) be, and hereby is, approved.⁷⁴

It is therefore ordered pursuant to Section 19(b)(2) of the Act that the proposed rule change (SR–LCH SA–2017–013) be, and hereby is, approved.⁷⁵

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁷⁶

Eduardo A. Aleman,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83449; File No. SR–CboeEDGA–2018–010]

Self-Regulatory Organizations; Cboe EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Physical Port Fees for EDGA

June 15, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that on June 1, 2018, Cboe EDGA Exchange, Inc. (the “Exchange” or “EDGA”) 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 Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act³ and Rule 19b–4(f)(2) thereunder,⁴ which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend its fees and rebates applicable to

⁷⁴ In approving the proposed rule change, the Commission considered the proposal’s impacts on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁷⁵ In approving the proposed rule change, the Commission considered the proposal’s impacts on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁷⁶ 17 CFR 200.30–3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ 17 CFR 240.19b–4(f)(2).

Members⁵ and non-Members of the Exchange pursuant to EDGA Rule 15.1(a) and (c) to modify its fees for physical ports.

The text of the proposed rule change is available at the Exchange’s website at www.markets.cboe.com, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange 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. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to implement proposed changes to its fee schedule relating to physical connectivity fees, effective June 1, 2018. By way of background, a physical port is utilized by a Member or non-Member to connect to the Exchange at the data centers where the Exchange’s servers are located. The Exchange currently maintains a presence in two third-party data centers: (i) The primary data center where the Exchange’s business is primarily conducted on a daily basis, and (ii) a secondary data center, which is predominantly maintained for business continuity purposes. The Exchange currently assesses the following physical connectivity fees for Members and non-Members on a monthly basis: \$2,000 per physical port for a 1 gigabyte circuit and \$7,000 per physical port for a 10 gigabyte circuit. The Exchange proposes to increase the fees per physical ports from (i) \$2,000 to \$2,500 per month, per port for a 1 gigabyte circuit and (ii) \$7,000 to \$7,500 per month, per port for a 10 gigabyte circuit. The Exchange notes the proposed fees enable it to continue to maintain and improve its market technology and services and also notes that the proposed fee changes are in line

⁵ The term “Member” is defined as “any registered broker or dealer that has been admitted to membership in the Exchange.” See Exchange Rule 1.5(n).

with the amounts assessed by other exchanges for similar connections.⁶

The Exchange also proposes to adopt separate physical port fees for connection to its secondary data center, which is predominantly maintained for business continuity purposes (“Disaster Recovery Systems”). Particularly, the Disaster Recovery Systems can be accessed via physical ports in Chicago. Members and Non-Members may maintain physical ports in order to be able to connect to the Disaster Recovery Systems in case of a disaster. Currently, physical ports that are used to connect to the Disaster Recovery Systems are assessed the same fees as physical ports used to connect to the Exchange’s trading system. The Exchange proposes to establish separate pricing for physical ports that are used to connect to the Disaster Recovery Systems (“Disaster Recovery Physical Ports”). Specifically, the Exchange proposes to assess a monthly fee of \$2,000 per 1 gigabyte Disaster Recovery Physical Port and a monthly fee of \$6,000 per 10 gigabyte Disaster Recovery Physical Port. This amount will continue to enable the Exchange to maintain the Disaster Recovery Physical Ports in case they become necessary. The Exchange notes that the Disaster Recovery Physical Ports may also be used to access the Disaster Recovery Systems for the following affiliate exchanges Cboe BZX Exchange, Inc., Cboe EDGX Exchange, Inc., Cboe BYX Exchange, Inc., Cboe C2 Exchange, Inc., Cboe Exchange, Inc. and Cboe Futures Exchange, LLC as well. The Exchange proposes to provide that market participants will only be assessed a single fee for any Disaster Recovery Physical Port that also accesses the Disaster Recovery Systems for these exchanges.⁷

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,⁸ in general, and furthers the objectives of Section 6(b)(4),⁹ in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange also notes that it operates in

⁶ See e.g., NYSE Arca Equities Fees and Charges, NYSE Arca Marketplace: Other Fees and Charges, Connectivity Fees. See also, Nasdaq Phlx LLC Pricing Schedule, Section XI, Direct Connectivity to Phlx.

⁷ For example, if a market participant uses a 1 gigabyte Disaster Recovery Physical Port to connect to the Disaster Recovery Systems for both EDGA and EDGX, the market participant would only be assessed one monthly fee of \$2,000.

⁸ 15 U.S.C. 78f.

⁹ 15 U.S.C. 78f(b)(4).