



VIA CFTC Portal

16 November 2022

**Mr Christopher Kirkpatrick**  
**Commodity Futures Trading Commission**  
**1155 21<sup>st</sup> Street NW**  
**Three Lafayette Centre**  
**Washington DC 20581**  
**USA**

Dear Mr Kirkpatrick,

Pursuant to CFTC regulation 39.5(b), LCH SA (“**LCH SA**”), a derivatives clearing organization registered (“**DCO**”) with the Commodity Futures Trading Commission (the “**CFTC**”), is making the present submission for determination of whether mandatory clearing should apply.

**iTraxx Asia ex-Japan and CDX EM Indices initiative**

Subject to ongoing regulatory review and approval process, LCH SA intends to expand its clearing services in respect of the clearing of Markit iTraxx® Asia ex-Japan (“**iTraxx Asia ex-Japan**”) and Markit CDX Emerging Markets (“**CDX EM**”) indices with the associated single name constituents

**Eligibility to clear swaps and ability to maintain compliance under a mandatory clearing determination**

LCH SA CDS Clear is expecting to launch the clearing offer for Markit iTraxx® Asia Ex-Japan and CDX EM indices, as an extension to its current product offering in Q4 2022 subject to any relevant regulatory review or approval process duly completed.

Under CFTC regulation, LCH SA is eligible to clear these swaps and will be able to maintain compliance with section 5b(c)2 of the Act

**Factors for determination**

**The existence of significant outstanding notional exposures, trading liquidity, and adequate pricing data.**

Year-to-date (to 9 Sep2022), Ice Clear Credit has cleared USD 77bn<sup>1</sup> of iTraxx Asia ex-Japan, with open interest of USD 17.2bn and USD 216bn of CDX EM, with open interest of USD 28.8bn.

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<sup>1</sup> [ICE Report Center - Data \(theice.com\)](https://www.theice.com)

Pricing data is available from IHS Markit and other standard price sources. However, to ensure that LCH SA always has access to the best prices, even on illiquid products, we have implemented a process whereby members of the CDSClear service (with open interest in a product) contribute prices on a daily basis. These prices are aggregated to create our settlement prices.

**The availability of rule framework, capacity, operational expertise and credit support infrastructure to clear the contract on terms that are consistent with the material terms and trading conventions on which the contract is then traded.**

LCH SA already has a well-developed rule framework and support infrastructure for clearing CDS indices. LCH SA intends to leverage this existing operational capability when extending its offering to cover iTraxx Asia ex-Japan and CDX EM indices.

For example, in 2021 LCH CDSClear cleared circa EUR 2 trillion in CDS index trades.

In order to prepare for the launch of iTraxx Asia ex-Japan and CDX EM indices, LCH SA has performed testing to ensure that it is able to clear iTraxx Asia ex-Japan and CDX EM indices in a manner that is consistent with the terms on which iTraxx Asia ex-Japan and CDX EM indices contracts are traded.

As for the other CDS indices currently cleared through LCH SA, the clearing documentation applicable to the CDS cleared contract is based on the market standard documentation.

**The effect on the mitigation of systemic risk, taking into account the size of the market for such contract and the resources of the derivatives clearing organization available to clear the contract**

For any newly cleared product, the CCP's default management protocols, processes and technology are modified to allow clearing of the new product.

The CCP's risk management framework has been calibrated to handle an expected volume of activity.

**The effect on competition, including appropriate fees and charges applied to clearing**

iTraxx Asia ex-Japan and CDX EM indices are currently cleared by Ice Clear Credit only. The extension of the CDS Clearing service offered by LCH SA should allow more competition on this market and could down the line lead the European authorities to submit the iTraxx Asia ex-Japan and CDX EM indices to mandatory clearing.

The fees applicable to the clearing of iTraxx Asia ex-Japan and CDX EM indices will be the same as the fees applicable to other indices cleared on the platform as denominated in USD<sup>2</sup>. The current fees for USD denominated products have been certified with the CFTC<sup>3</sup>.

**The existence of reasonable legal certainty in the event of insolvency of the relevant derivatives clearing organization or one or more of its clearing members with regard to the treatment of customer and swap counterparty positions, funds and property**

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<sup>2</sup> <https://www.lch.com/services/cdsclear/fees>

<sup>3</sup> [LCHSA\\_CDSClear\\_Fees\\_2022\\_CFTC\\_SelfCert\\_Amended\\_17\\_Dec.2021.pdf](#)



The level of legal certainty around the clearing of iTraxx Asia ex-Japan and CDX EM indices is the same as that of any other CDS currently cleared by LCH SA.

Insofar as legal certainty in the event of the insolvency of the DCO is concerned, LCH SA would be wound up under French law and has provided opinions on the treatment of cleared swaps customer funds as part of its DCO registration in 2013.

**Product specifications, including copies of any standardized legal documentation, generally accepted contract terms, standard practices for managing any life cycle events associated with the swap, and the extent to which the swap is electronically confirmable.**

The clearing documentation applicable to iTraxx Asia ex-Japan indices is based on the market standard iTraxx AsiaPac Untranchd Transactions Standard Terms Supplement published by Markit<sup>4</sup>. The clearing documentation applicable to CDX EM indices is based on the market standard CDX Emerging Markets Untranchd Transactions Standard Terms Supplement published by Markit<sup>5</sup>. This covers the standardized legal documentation and generally accepted contract terms.

Standard practices for managing any life cycle events are based on the credit events as defined under the 2014 ISDA Credit Derivatives Definitions<sup>6</sup> as applicable, and as determined by the ISDA EMEA Determination Committee<sup>7</sup>.

Only standardized CDS are eligible to clearing and as a result, they are all electronically confirmable.

**Participant eligibility standards, if different from the derivatives clearing organization's general participant eligibility standards**

The participant eligibility standards have not been modified.

**Pricing sources, models, and procedures, demonstrating an ability to obtain sufficient price data to measure credit exposures in a timely and accurate manner, including any agreements with clearing members to provide price data and copies of executed agreements with third party price vendors, and information about any price reference index used, such as the name of the index, the source that calculates it, the methodology used to calculate the price reference index and when and where it is published publicly**

LCH SA will continue using a price contribution process as described under Section 5.18 of the CDS Clearing Procedures<sup>8</sup>. All members are required to contribute on contracts on which they have open interest.

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<sup>4</sup> <https://www.markit.com/Documentation/Product/iTraxx>

<sup>5</sup> <https://www.markit.com/Documentation/Product/CDX>

<sup>6</sup> <https://www.isda.org/2014/06/30/2014-isda-credit-derivatives-definitions/>

<sup>7</sup> <https://www.cdsdeterminationscommittees.org/>

<sup>8</sup>

[https://www.lch.com/system/files/media\\_root/CDSClear\\_Section\\_5\\_of\\_the\\_Procedures\\_18.05.2022.pdf](https://www.lch.com/system/files/media_root/CDSClear_Section_5_of_the_Procedures_18.05.2022.pdf)

**Risk management procedures including measurement and monitoring of credit exposures, initial and variation margin methodology, methodologies for stress testing and back testing, settlement procedures, and default management procedures**

The margin framework for sovereigns and state-owned enterprises, in particular updates for potential joint defaults in the short charge and the addition of relevant hedging indices in the liquidity charge, has been added to the revised version of the LCH SA Reference Guide: CDS Margin Framework (V3.14)<sup>9</sup>. Risk management procedures have been updated to consider an additional market data snap to be validated on a daily basis for Asian products.

**Applicable rules, manuals, policies or procedures**

The CDS Clearing Supplement has been updated to make reference to the CDX Emerging Markets Untranchd Transactions Standard Terms Supplement published by Markit. It also adds certain provisions related to sovereign CDS.<sup>10</sup>

CDSClear Service Guide has been updated to include Hong Kong as a Trading City for end of day price contributions and cross trades.

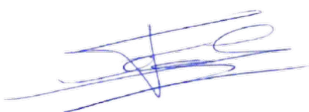
**A description of the manner in which the derivatives clearing organization has provided notice of the submission to its members and a summary of any views on the submission expressed by the members**

The proposed CDS clearing documentation provided to legal working group of CDSClear members and submitted to consultation is attached to the self-certification available on LCH's website.<sup>11</sup>

Clearing members have been informed via the notice attached in Appendix with the following feedback.

One clearing member welcomes the clearing of these indexes by LCH SA but does not believe that clearing should be mandated for the new indexes unless and until the usual review process is carried out as to whether a product is suitable for a clearing mandate.

Yours sincerely,



**Frank Soussan**  
**Global Head of CDSClear**  
**LCH SA**

<sup>9</sup>[https://www.lch.com/sites/default/files/media/files/LCHSACDSClear\\_iTraxxAsia\\_CDSEM\\_Sov\\_SelfCert%2BAppendix\\_Forma\\_12Sep2022.pdf](https://www.lch.com/sites/default/files/media/files/LCHSACDSClear_iTraxxAsia_CDSEM_Sov_SelfCert%2BAppendix_Forma_12Sep2022.pdf)

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## APPENDIX

### Notice of the submission to CDSClear members



LCHSA\_CDSClear\_iT  
rxxxAsiaexJapan\_CD

# Memo

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|         |  |
|---------|--|
| To      | Clearing Members   |
| From    | LCH SA – CDSClear service  |
| Date    | []   |
| Subject | <b>CFTC Clearing Mandate Determination for iTraxx Asia ex-Japan and CDX EM Index CDS</b> |

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## Introduction

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## Factors for determination

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<sup>9</sup> To be published at least 2 days before go-live at <https://www.lch.com/resources/rulebooks/lch-sa>.

<sup>10</sup>

[https://www.lch.com/sites/default/files/media/files/LCHSACDSClear\\_iTraxxAsia\\_CDSEM\\_Sov\\_SelfCert%2BAppendix\\_Forma1\\_12Sep2022.pdf](https://www.lch.com/sites/default/files/media/files/LCHSACDSClear_iTraxxAsia_CDSEM_Sov_SelfCert%2BAppendix_Forma1_12Sep2022.pdf)

<sup>11</sup> <https://clearingservices.lchclearnet.com/web/portal/cdsclear/documents/CDSClear-%20Service%20Description%20May%202022%20-%20V17.0.pdf>