



# Breach of Clearing Rule Book Procedure

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## 1. Introduction

This document describes the Cboe Clear Breach of Clearing Rule Book Procedure for the Risk Management FLD department of Cboe Clear Europe N.V. (**Cboe Clear**).

This document contains the following information:

- The part of the process flow this procedure relates to;
- Procedure description;
- Roles and Responsibilities; and
- Key Risks and Controls.

This procedure will be reviewed every two (2) years or in case of a major change by the Procedure Owner.

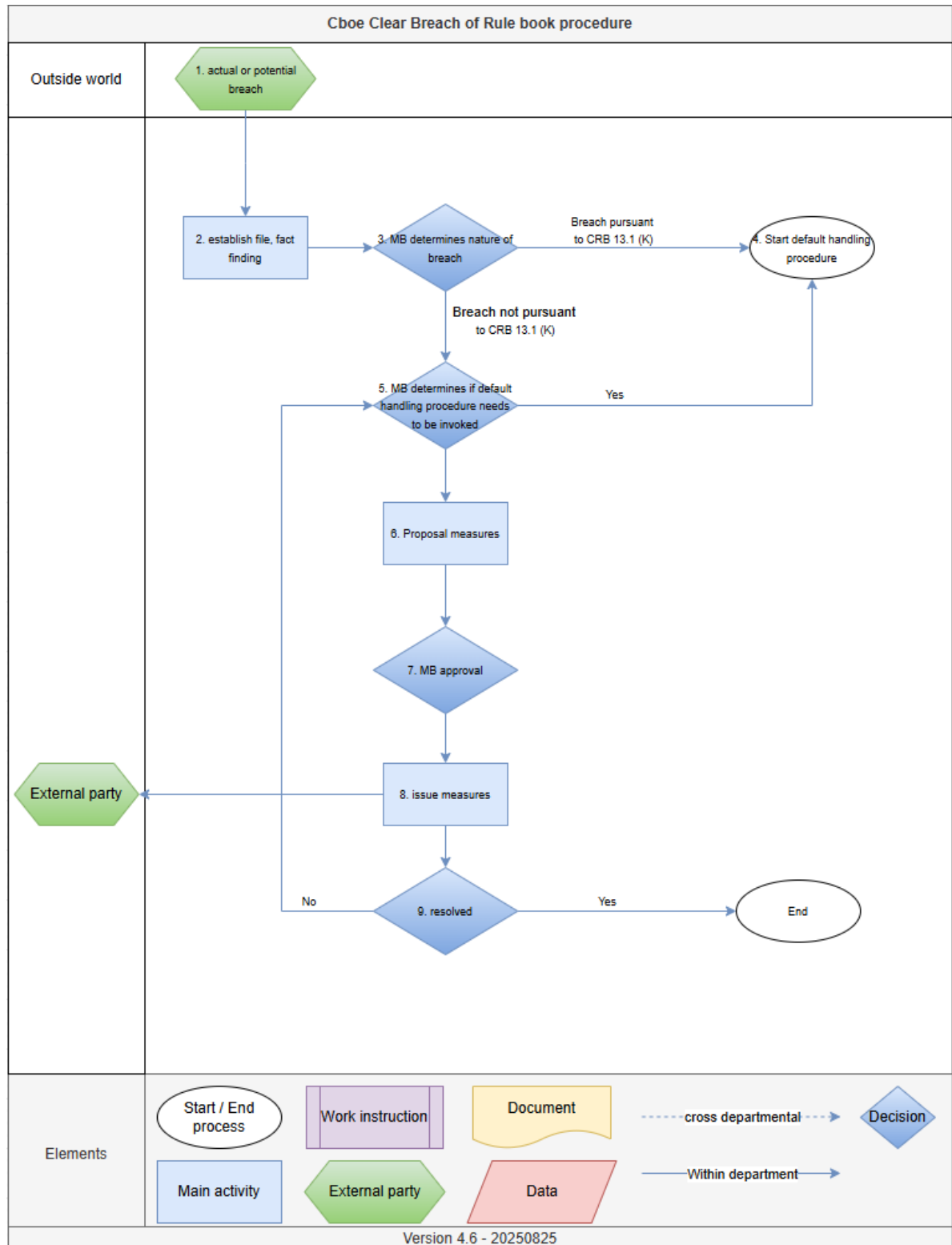
It is important that all relevant staff have read and understood this document.

### 1.1. Related documents

Related Documents
Cboe Clear Europe Clearing Rule Book
Cboe Clear Securities Default Handling
Cboe Clear Default handling procedure

## 2. Process Flow

The below graphics provide a visual link to the related process.



### 3. Procedure Description

#### 3.1. Overview

A breach refers to any of the conditions as set out in chapter 13 of Cboe Clear Clearing Rule Book that may indicate a Clearing Participant, including associated entities and Co-operating CCPs, is, or will, unable to meet its obligations under the Clearing Rules.

If a Clearing Participant meets the condition set out in chapter 13 (Breach of Clearing Participant), paragraph 13.1 K), *any of the insolvency proceedings listed in Annex A to Regulation (EU) 2015/848 of 20 May 2015 on Insolvency Proceedings (or any similar proceedings with a competent court of authority in a jurisdiction outside the EU) is requested, order or stated in respect of Clearing Participant (or, its Associated Entity)*, Cboe Clear will immediately and unconditionally invoke its default handling procedure.

For any of the remaining conditions in chapter 13, paragraph 13.1, Cboe Clear will determine whether the Clearing Participant is, or will be, unable to meet its obligations under the Clearing Rules. Where such determination is made, and subject to Management Board approval, Cboe Clear may:

- Proceed to invoke the default handling procedures;
- Implementing mitigating measures to address the event or circumstance, or
- Accept the risk without introducing mitigating measures, in which case the decision and rationale must be formally documented and logged.

Once the course of action is approved, Cboe Clear shall ensure the decision, supporting evidence, and all related communications are recorded in accordance with internal record-keeping requirements.

#### 3.2. Procedure summary

The table below sets out the procedural steps.

Action	Who (CP /Staff) or Which (System)	Does what (Activity)	When
1	Clearing Participant	This procedure comes into force when a Clearing Participant is unable, or likely to become unable, or has failed to meet its obligations under Cboe Clear's Clearing Rules.	(External) event
2	Compliance, Finance, Legal, Middle & Back Office, Client Management and/or Risk Management FLD	Relevant departments accumulate all factual information related to the potential breach. Once the information is deemed complete, the information will be provided to the Management Board in such a way it allows for the identification and verification of the type of Breach.	As soon as possible
3	Management Board	Assesses and decides if the Breach meets the criteria as set under Clearing Rule Book 13.1.(K).	As soon as possible

			following information
4	Management Board	Start Default Handling Procedure, end this procedure.	Pursuant to CRB 13.1.(K)
5	Management Board	Decides if the Breach meets the criteria as a trigger for default.	Not pursuant to CRB 11.1.(K)
6	Compliance, Finance, Legal, Middle & Back Office, Client Management and/or Risk Management FLD	<p>The relevant department will draft a proposal for Management Board to consider. The information provided shall be comprehensive, including (but not limited to):</p> <ul style="list-style-type: none"> <li>▪ (Possible) Moment of occurrence</li> <li>▪ (Potential) Impact of breach</li> <li>▪ Proposal in respect to addressing the breach (when deemed necessary)</li> <li>▪ Timelines in which the breach should be addressed (applicable when there is a proposal in respect to addressing breach)</li> <li>▪ Any other information considered relevant.</li> </ul> <p>Further, where a proposal includes (a) remedy or sanction that aims to address the breach, the relevant department(s) shall consider the items as listed in Cboe Clear's Clearing Rule book:</p> <ul style="list-style-type: none"> <li>A. Severeness of breach;</li> <li>B. Any evidence of repeated or regular breaches;</li> <li>C. Accumulation of complaints against CP;</li> <li>D. Degree of co-operations with Cboe Clear by the CP in connection with identification and rectification of breach and;</li> <li>E. relevant precedent.</li> </ul> <p>Adjacent to the above, Legal will inform Cboe Clear's National Competent Authority regarding its intention to issue a Breach of Rule Book notification.</p> <p>In the event the proposal is to not impose mitigants, Management Board approval must be sought and obtained. If approved, the decision and rationale must be formally documented and logged, after which this procedure is concluded.</p>	Immediately after decision not to invoke the Default Handling Procedure.
7	Management Board	<p>Consider information provided and set out mandatory actions. The Management Board will include a timestamp on which compliance with the Clearing Rulebook must be obtained.</p> <p>The relevant department(s) will be informed and mandated with ensuring the respective actions are executed – ensuring compliance of proposal within the set timeframes.</p>	Immediately after receipt of proposal.

8	Compliance, Finance, Legal, Middle & Back Office, Client Management and/or Risk Management FLD	Will liaise with the respective Clearing Participant to ensure compliance with the approved measures.  Until due date, the relevant department(s) shall continue to monitor the situation periodically.	After approval of Management Board
9	Compliance, Finance, Legal, Middle & Back Office, Client Management and/or Risk Management	The relevant department(s) will verify whether the issued measures have led to the desired outcome – ultimately to resolving the breach.  In the event the breach is still occurring, Management Board shall be notified of the situation and requested to determine if the current breach will require invoking the default handling procedure.  In the event the breach is no longer existent, the breach is considered no longer existent. All relevant information shall be added to the file of the respective Clearing Participant.	At due date
10		This procedure “Breach of Clearing Rule Book” ends.	When breach has been resolved

## 4. Roles and Responsibilities

This section describes in detail the different roles and responsibilities applicable to this procedure, including alignment with 3LoD.

RACI <sup>1</sup>	Role	Responsibility	LoD
A	Chief Risk Officer	Overall accountable	2LoD
R	Risk Oversight	Responsible for a complete, accurate and timely process related to the procedure	2LoD
C	Risk Committee	Advice on parameters for back testing	2LoD
I	Internal Audit	Check if all activities and measures were taken properly in accordance with procedure.	3LoD

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<sup>1</sup> Responsible / Accountable / Consulted / Informed