



EMIR 38.2: Risks associated with clearing services

1. Clearing Members and Clients: Risks associated with the Services Provided

- 1.1. The Clearing House advises its Clearing Members (and their Clients) pursuant to EMIR Article 38.1 that the use of its clearing services exposes them to financial loss, including, but not limited to:
- (i) Clearing Member Default:
 - a) Non-defaulting Clearing Members are contributors to the Guaranty Fund and subject to Powers of Assessment as part of ICE Clear Europe's default waterfall. In addition, Clearing Members may be subject to loss allocation. In the event of service closure, replacement costs could be incurred.
 - b) A defaulting Clearing Member's Clients may also incur losses or disruption to their activities as a result of the default management process.
 - c) For further information please refer to ICE Clear Europe Rules:
<https://www.theice.com/clear-europe/regulation>
 - (ii) Extended Member Liability: a Clearing Member's APS bank may default while holding that Clearing Member's funds on the account of ICE Clear Europe at its APS bank. For further information please refer to:
https://www.theice.com/publicdocs/clear_europe/ICE_Clear_Europe_APS_Banks_Requirements.pdf
 - (iii) Clearing House insolvency:
https://www.theice.com/publicdocs/clear_europe/rulebooks/rules/Clearing_Rules_7_October_2014.pdf
 - (iv) Miscellaneous powers: the use of various discretionary powers under its Rules may result in Clearing Member losses (see Part 1 of the ICE Clear Europe Rules)
- 1.2. Disclaimer: The above description is a non-exhaustive list of the financial losses to which Clearing Members and/or their Clients may be exposed. Clearing Members and clients cannot rely on this disclosure and should undertake their own risk assessment and analysis of the Rules and associated documentation and processes.