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FIA Europe: Breakfast Briefing

Transaction reporting under MiFID II / MiFIR

Jonathan Herbst and Hannah Meakin, Partners
Norton Rose Fulbright LLP
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WPC 60.66

Transaction reporting for investment firms

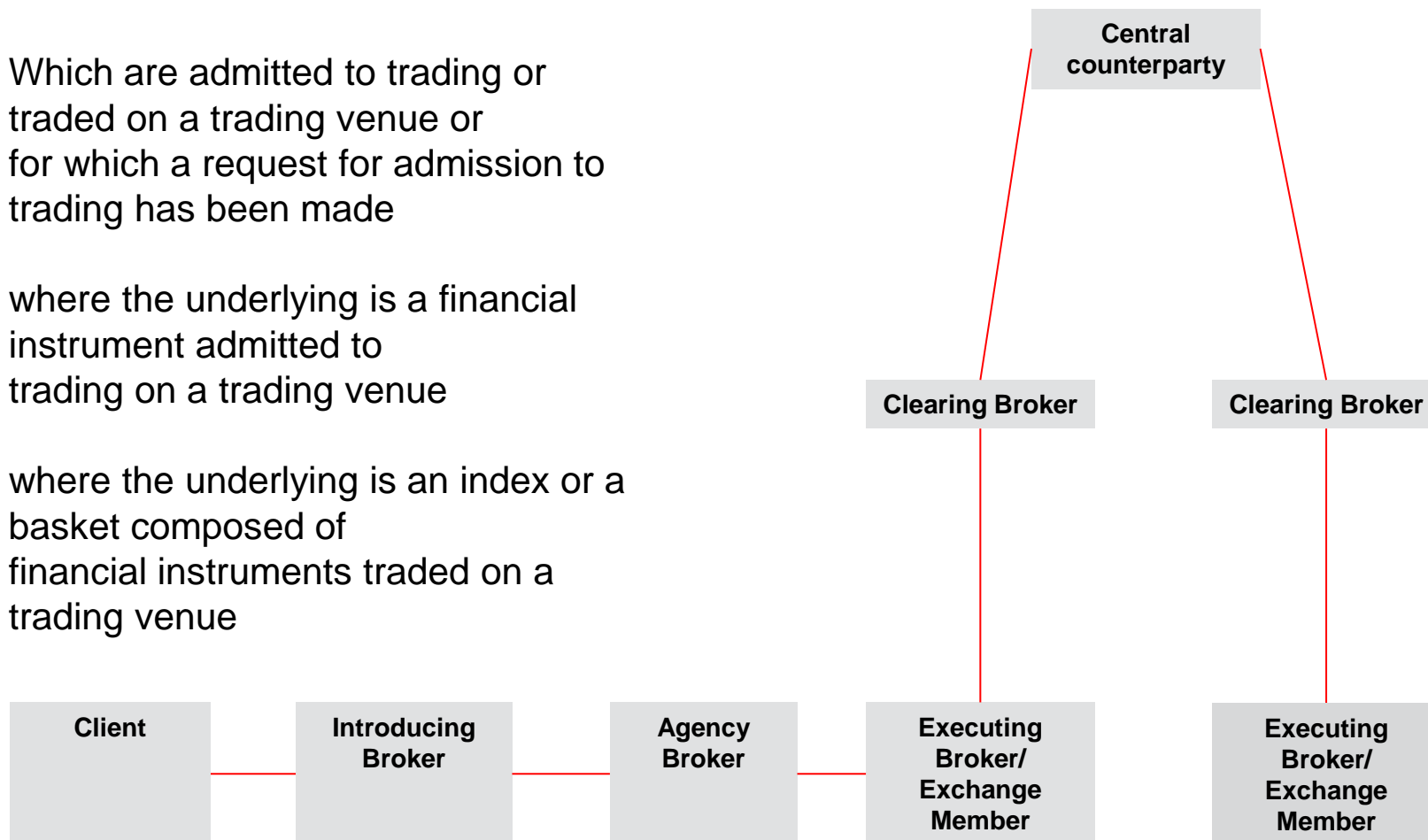
Which trades?	<ul style="list-style-type: none"> Investment firms that execute transactions in financial instruments: <ul style="list-style-type: none"> that are admitted to trading or traded on a trading venue or for which a request has been made where the underlying is a financial instrument traded on a trading venue where the underlying is an index or basket of financial instruments traded on a trading venue
Transactions and execution	<ul style="list-style-type: none"> Transaction means an acquisition or disposal subject to various exceptions Execute means reception and transmission, executing orders on behalf of clients, dealing on own account and making a decision in accordance with a discretionary mandate A firm that transmits orders can enter a transmission agreement under which receiving firm will report but, if it doesn't transmit all required information, it must report trades itself
Which information?	<ul style="list-style-type: none"> ESMA has attempted to simplify the reports – now down to 65 fields New fields include client ID, IDs of person or committee that make decision to trade and algo responsible for decision and execution Legal entities to be identified by LEI codes, simplified concatenation for individuals Codes for algos and committees must be unique, consistent and persistent Various new designations – e.g. waivers, short sales
How?	<ul style="list-style-type: none"> Firms can report themselves or through an ARM or trading venue – they must take reasonable steps to ensure compliance where they don't report themselves and remain responsible Trading venues will report trades executed by firms not subject to reporting obligation
To whom and by when?	<ul style="list-style-type: none"> Home competent authority of firm, even where a branch executes the transaction As quickly as possible and no later than end of next working day
Link to EMIR?	<ul style="list-style-type: none"> Transactions reported to a trade repository under EMIR count provided: <ul style="list-style-type: none"> that trade repository is also an ARM the report contains all the required details trade repository transmits information to competent authority

Which derivatives need to be reported?

Which legs of an ETD need to be reported?

Financial instruments:

- (a) Which are admitted to trading or traded on a trading venue or for which a request for admission to trading has been made
- (b) where the underlying is a financial instrument admitted to trading on a trading venue
- (c) where the underlying is an index or a basket composed of financial instruments traded on a trading venue



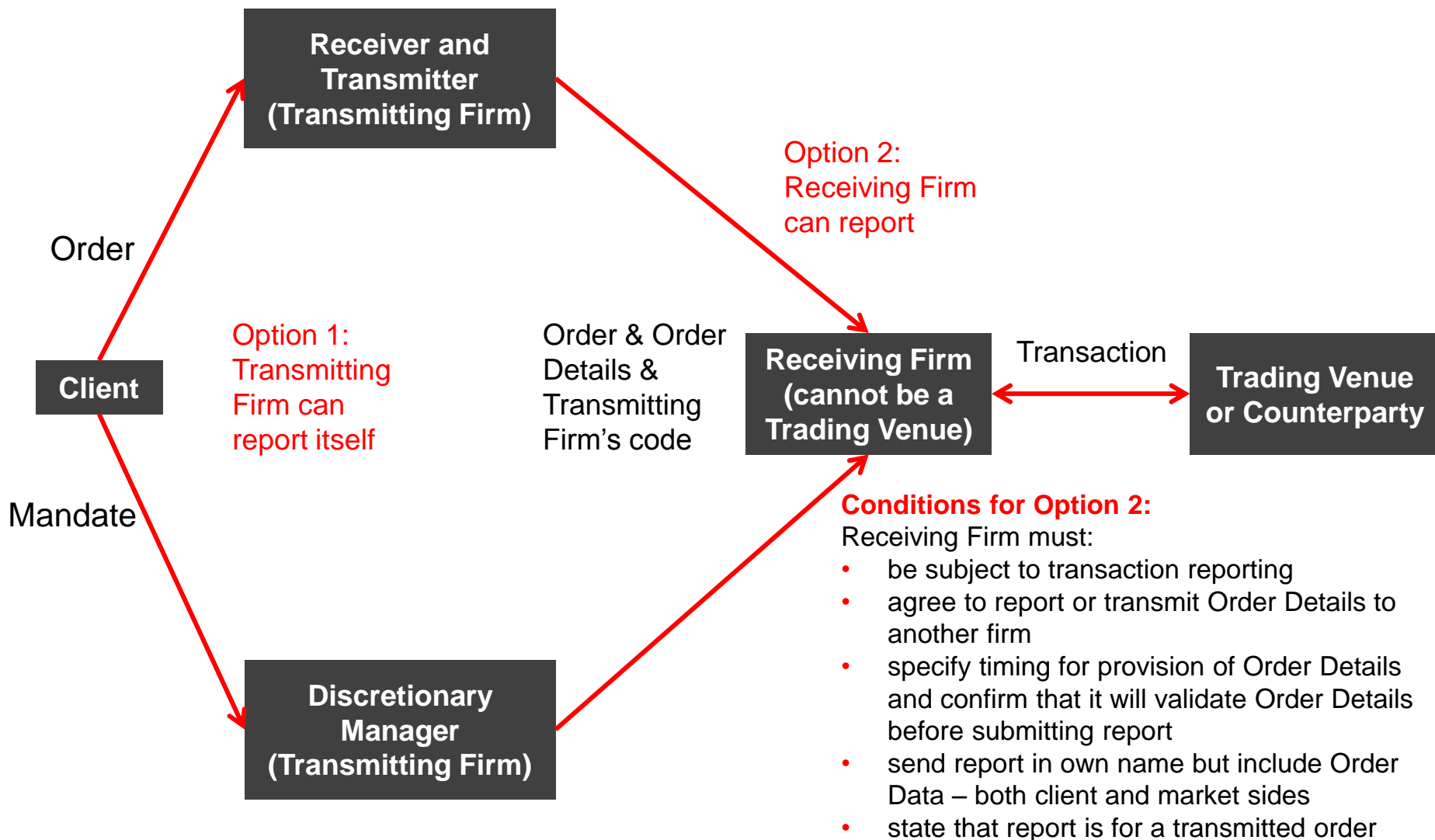
Which OTC derivatives need to be reported?

Financial instruments:

- | | |
|--|---|
| (a) which are admitted to trading or traded on a trading venue or for which a request for admission to trading has been made | <ul style="list-style-type: none">• underlying is an equity traded on a RM, MTF or OTF <input checked="" type="checkbox"/> |
| (b) where the underlying is a financial instrument admitted to trading on a trading venue | <ul style="list-style-type: none">• settlement price refers to settlement price of a derivative traded on a RM, MTF or OTF <input checked="" type="checkbox"/>• on same terms as a derivative traded on a RM, MTF or OTF <input checked="" type="checkbox"/> |
| (c) where the underlying is an index or a basket composed of financial instruments traded on a trading venue | <ul style="list-style-type: none">• underlying is a future traded on an a RM, MTF or OTF <input checked="" type="checkbox"/> |

Transmission of orders

Transmission of orders



Transmission agreements: what might they contain?

Beyond conditions on previous slide, ESMA suggests that commercial terms should be for negotiation between parties

Liability

Responsibility presumably lies with Receiving Firm if conditions for transmission are satisfied but:

- What if there is a mistake in the transmission information provided by Receiving Firm? Transmitting Firm must validate order details for obvious errors and omissions but this won't capture everything
- Contractual consequences need not necessarily be limited to regulatory responsibility
- Will Transmitting Firms seek to recover some of their risk of fines or costs of other disciplinary action and back reporting?

Monitoring

- Obligation to notify competent authority of errors, omissions and failures it notices – presumably also on Receiving Firm but will it report anything the Transmitting Firm notices?
- How much monitoring and reconciliations can/ should the Receiving Firm do? Should this include the Art 15(3) and (4) RTS 22 obligations? And should Receiving Firm have to tell Transmitting Firm about anything it sees?

Compensation

- Is this a service that the buy-side / smaller brokers will pay for?

How MiFIR matches up with EMIR

When does an EMIR report count for MiFIR also?

- Trade repository must also be approved as an ARM
- Report must contain all details required under MiFIR
- Trade repository must transmit report to relevant competent authority no later than close of following working day

Potential problems with EMIR/ MiFIR reporting

EMIR	MiFIR
Two parties report each transaction	Multiple parties may report same transaction – they won't all be the counterparties
In their capacity as principal	Many persons other than the counterparties have a reporting obligation
Some counterparties have delegated reporting	This cannot be done under MiFIR – can counterparties establish a relationship with the trade repository for these purposes?
There is no equivalent of transmission	If a counterparty wants to use its EMIR reports, can it perform obligations as a Receiving Firm?
EMIR reports don't contain all the necessary reporting fields for MiFIR and even where they do, the notations can be different	Can existing EMIR information be reorganised and any missing information be collected in addition?

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