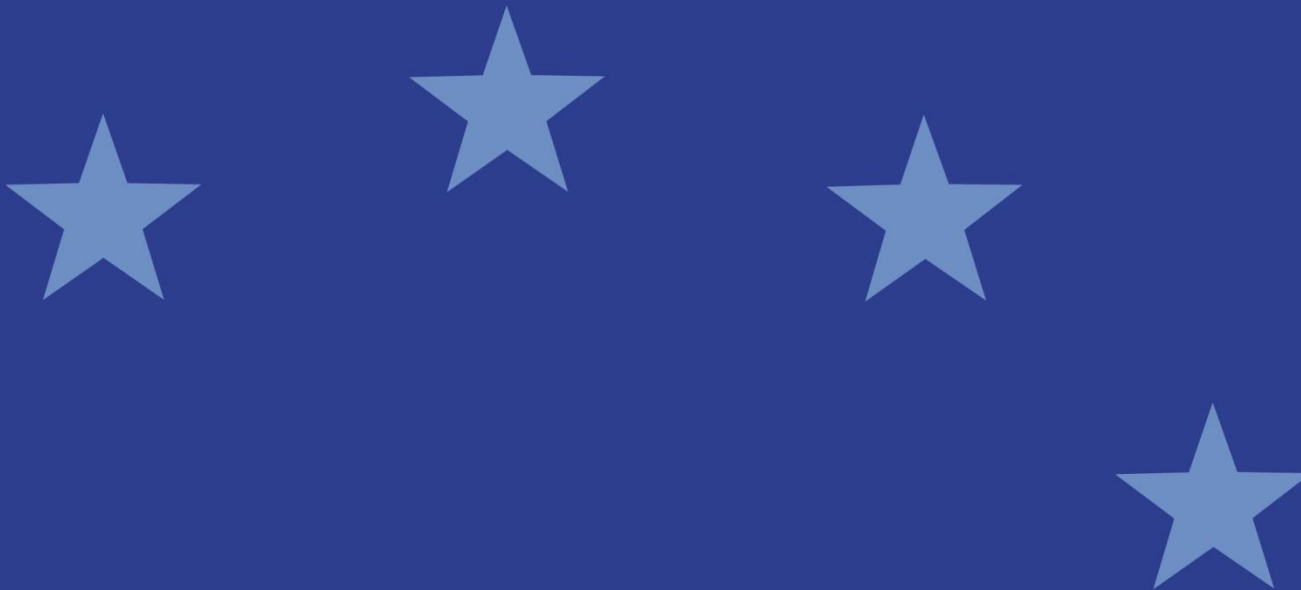


Position reporting, position management and current ESMA work on commodity derivatives

Brussels, 15 March 2017





Brussels, 15 March 2017

- Position reporting**
- Position management powers**
- ESMA works in the course of 2017**



Overview of reporting obligations under MiFID II/MAR

Commitment of traders report- TRANSPARENCY

- Article 58 MiFID II: Transparency to the market about the view of the market that certain categories of traders may be taking

Position reports – POSITION LIMITS

- Article 58 MiFID II: Monitoring and supporting position limits under Article 57 MiFID II (prevention of market abuse and market distorting position)

Transaction reporting – MARKET ABUSE

Prevention of Market Abuse → Article 26 MiFIR: obligation of investment firms to report all transactions on commodity derivatives traded on a trading venue; whose underlying is traded on a trading venue; whose underlying is composed of financial instruments traded on a trading venue

Suspicious transactions report- MARKET ABUSE

Prevention of Market Abuse → Article 16 MAR:

- Trading venues should have arrangements to prevent and detect insider dealing, market manipulation
- Persons professionally arranging or executing transactions should have arrangements to detect and report suspicious orders and transactions



POSITION REPORTING

WHAT IS A POSITION LIMIT?

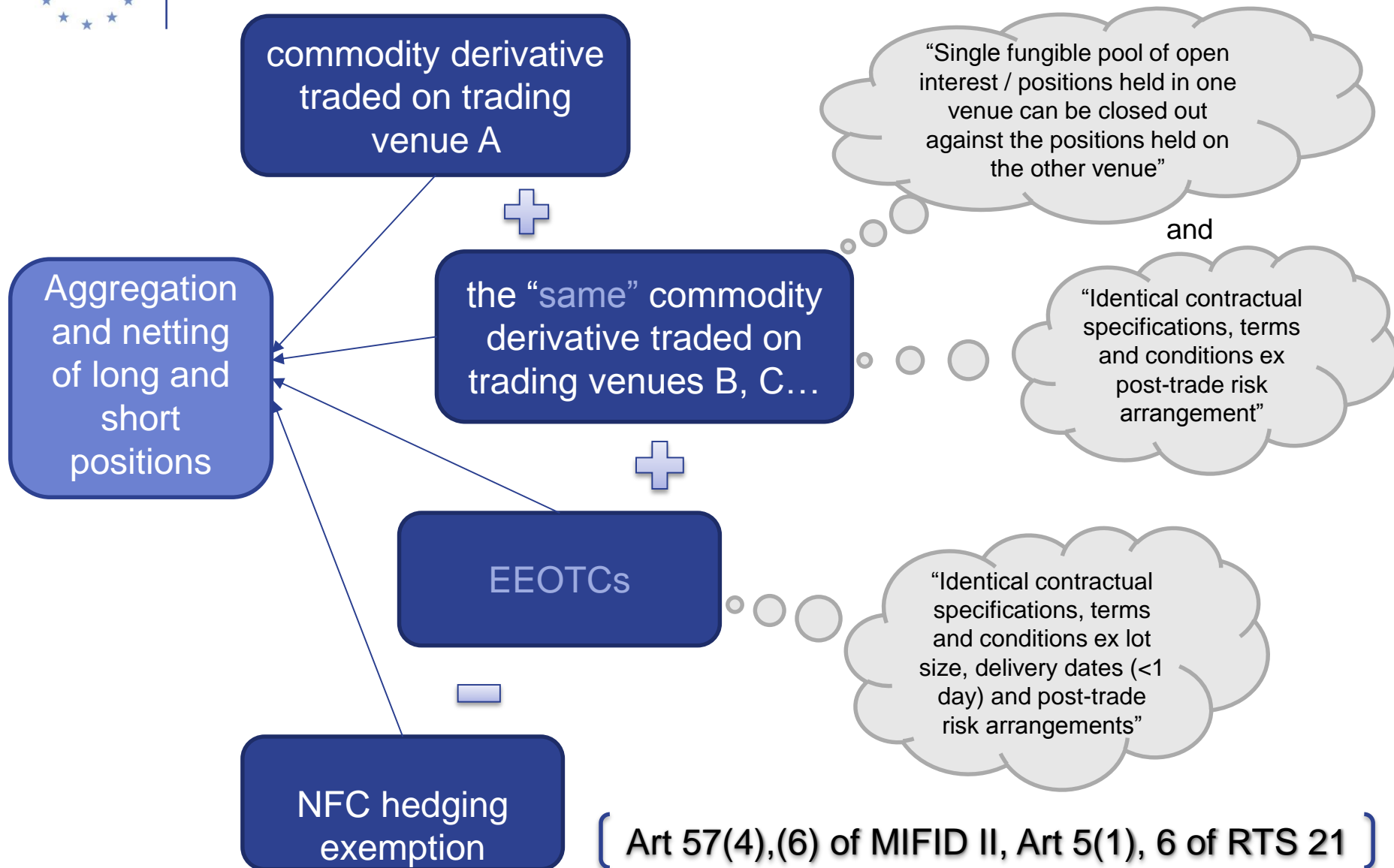
Position limit: Maximum **net position** which a person can hold at all times in commodity derivatives traded on trading venues and economically equivalent OTC contracts (EEOTC).

- **Objective:** Prevent market abuse and support orderly pricing and settlement.
- **Calculation:** All positions held by a person and those held on his behalf at an aggregate **group level** should be aggregated and netted off (unless no control).
- **Exemption:** Positions held by or on behalf of a **non-financial entity** used for **hedging** (*“objectively measurable as reducing risks directly relating to the commercial activity”*) should not be counted.

[Art 57(1) of MIFID II, Rec (4),(8) of RTS 21]

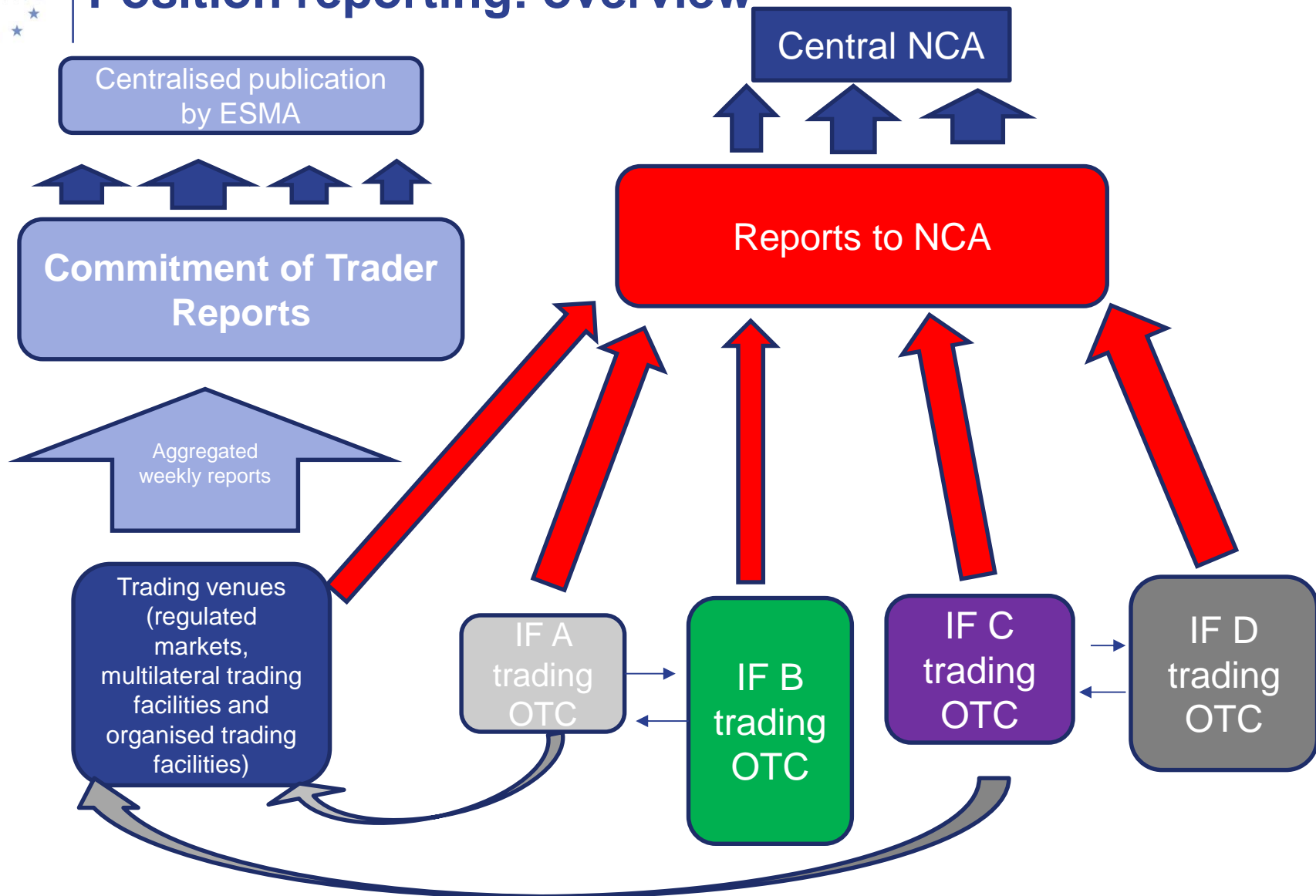


HOW IS A POSITION CALCULATED?



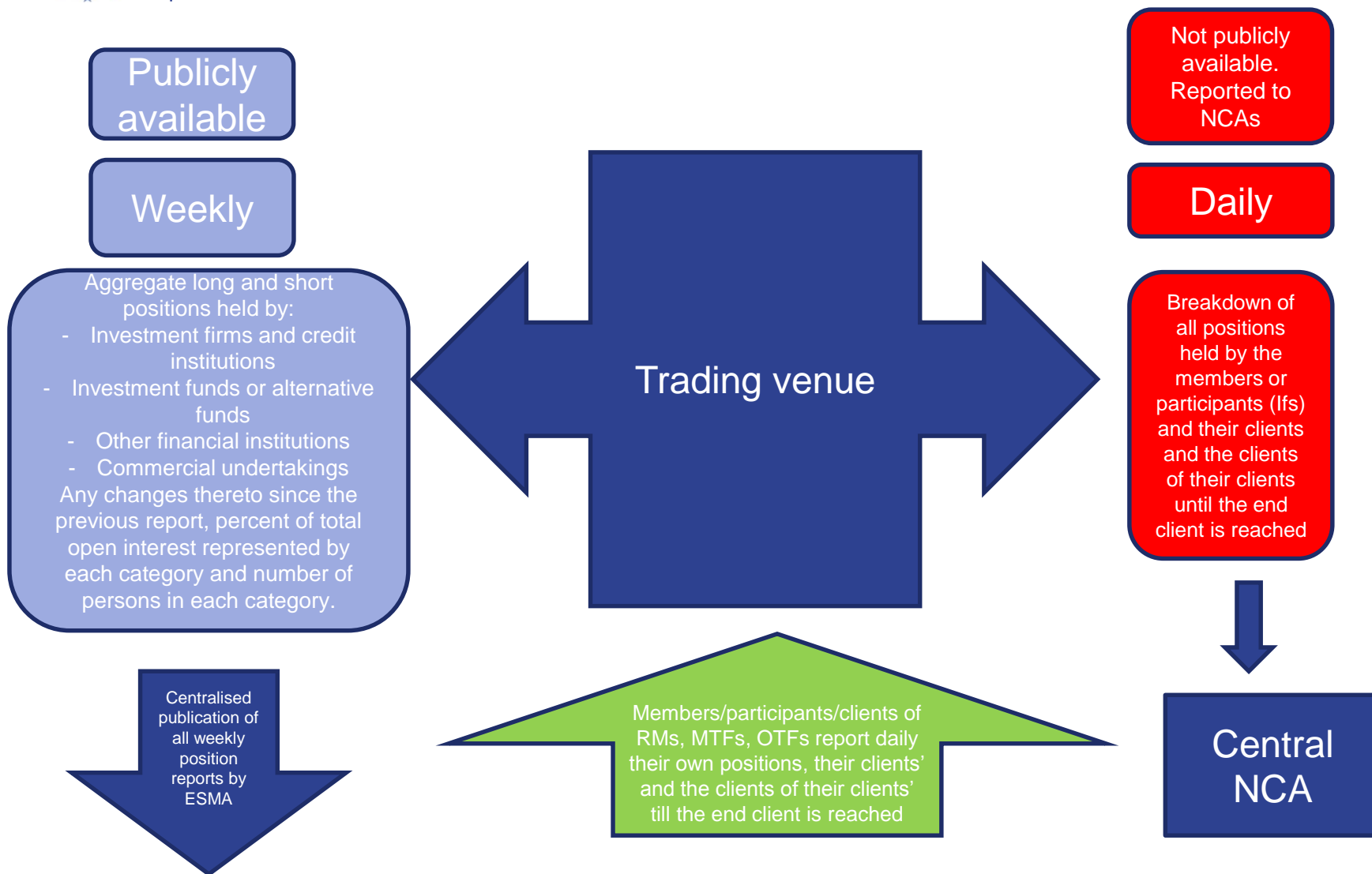


Position reporting: overview





Position reporting: on venue trading

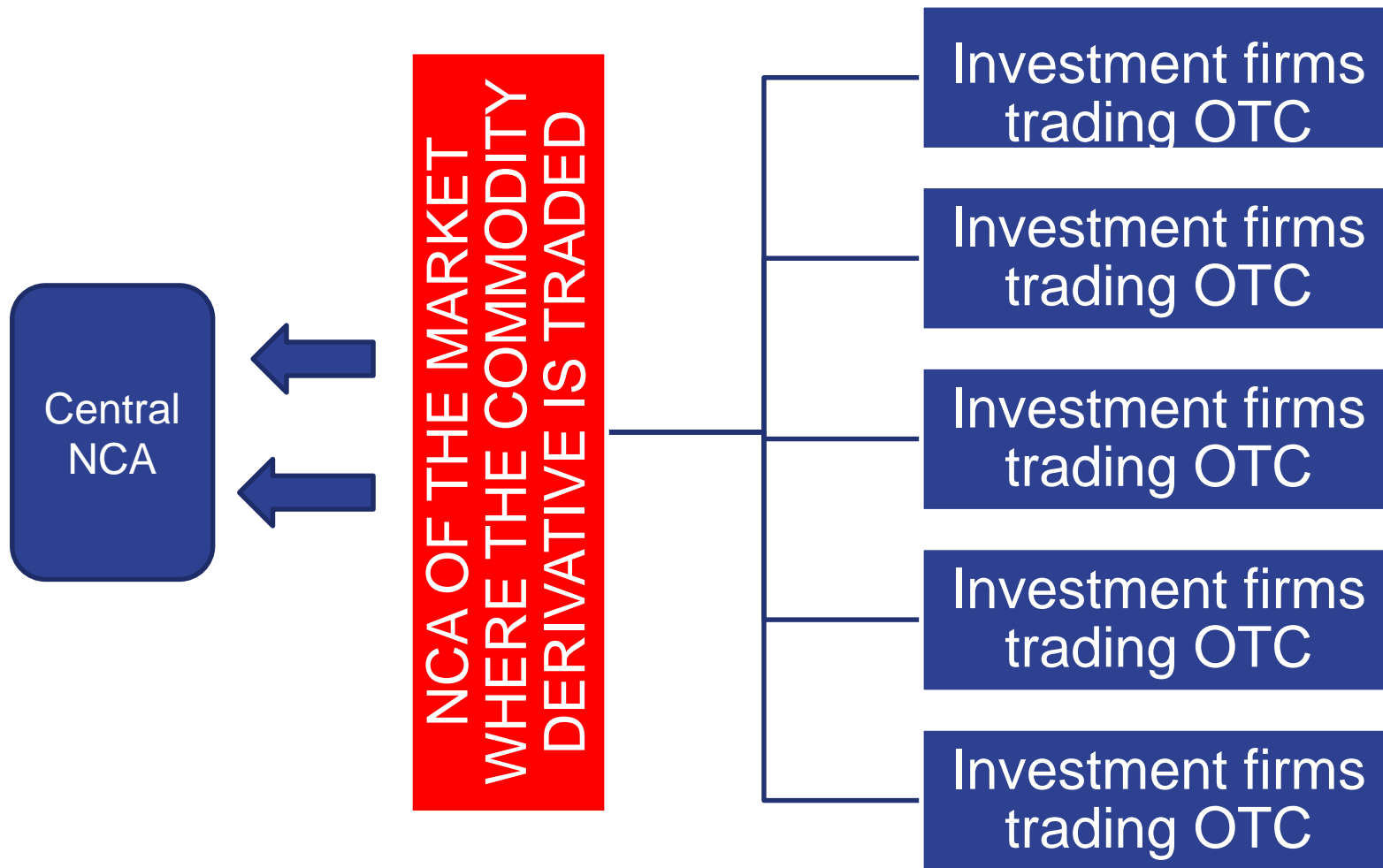




Position reporting: OTC trading

At least on a daily basis a complete breakdown of their positions and those of their clients reaching the end client including:

- On-venue trading
- Economically equivalent OTC trades





Position reporting differentiates financial and non-financial related activities and maturity

Position Report from IF to NCA

- Positions which in an objectively measurable way reduce risks relating to commercial activities
- Other positions
- Spot month
- Other months

Position Report from IF to trading venue

- Positions which in an objectively measurable way reduce risks relating to commercial activities
- Other positions
- Spot month
- Other months

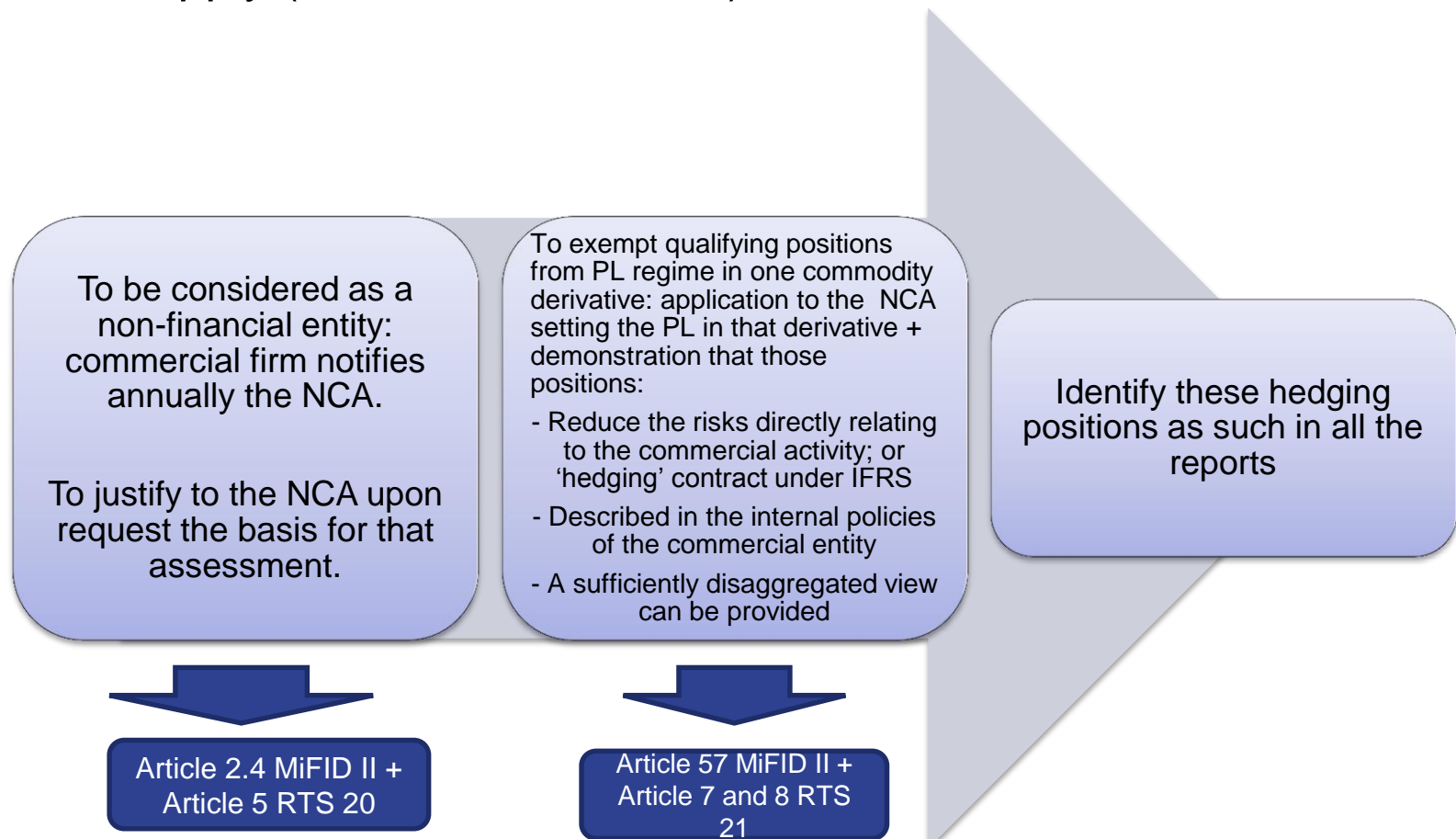
Commitment of Traders Report

- Positions which in an objectively measurable way reduce risks relating to commercial activities
 - Other positions
- Percentage of the total open interest represented by each category of traders



Positions which in an objectively measurable way reduce risks relating to commercial activities

These are positions in commodity derivatives or EEOTC for which position limits do not apply (Article 57.1 MiFID II)





Position reporting: issues on reporting for PL purpose

- **Obligation of investment firms to report the ‘positions of their client and the clients of their clients until the end client is reached’.**
- **Should ALL OTC trades in commodity derivatives be reported under Article 58(2)?** No. Only OTC trades of commodity derivatives traded on-exchange and EEOTC commodity derivatives.
- **Is a non-financial entity (e.g. a producer) entering into an OTC commodity derivative obliged to report under Article 58(2)?** No, only investment firms.



Position reporting: issues on reporting for transparency purposes

Are all commodity derivatives traded on-exchange subject to position reporting (for transparency purposes)? No.

Only when both of the following two thresholds are met:

- 20 open position holders exist in a given contract on a given trading venue; and
- the absolute amount of the gross long or short volume of total open interest, expressed in the number of lots of the relevant commodity derivative, exceeds a level of four times the deliverable supply in the same commodity derivative, expressed in number of lots.

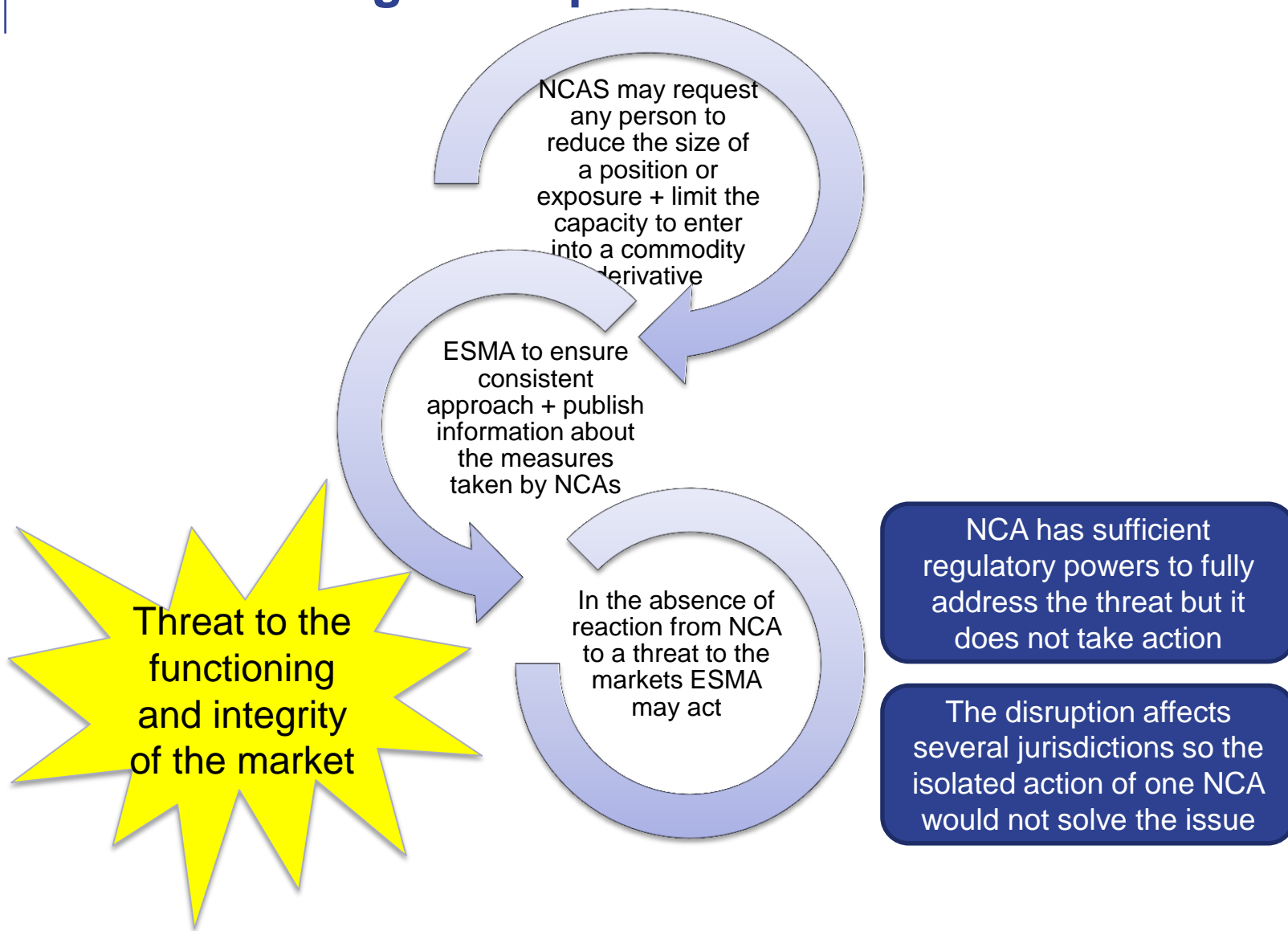


Extraordinary situations: position management controls and position management powers

Article 57.8 MiFID II: trading venues	Article 69.2 MiFID II: national competent authorities	ESMA: Article 45 MiFIR
<ul style="list-style-type: none"> - Monitor the open interest positions - Access all relevant information on size and purpose of a position/beneficial or underlying owners/concert arrangements/ - Require a person to terminate or reduce a position, on a temporary or permanent basis and to unilaterally take action to ensure that in case of non-compliance. - Where appropriate, require the person to bring liquidity back into the market at an agreed price and volume on a temporary basis 	<ul style="list-style-type: none"> (o) Request any person to take steps to reduce the size of the position or exposure [not only commodity derivatives] (p) Limit the ability of any person from entering into a commodity derivative, including by introducing limits on the size of a position any person can hold at all times (Position limits) 	<ul style="list-style-type: none"> - Request from any person all relevant information regarding the size and purpose of position/exposure entered into via a derivative <li style="text-align: center;">↓ - Requiring any person to reduce the size or eliminate the position <li style="text-align: center;">↓ - As a last resort, limit the ability of a person from entering into a commodity derivative

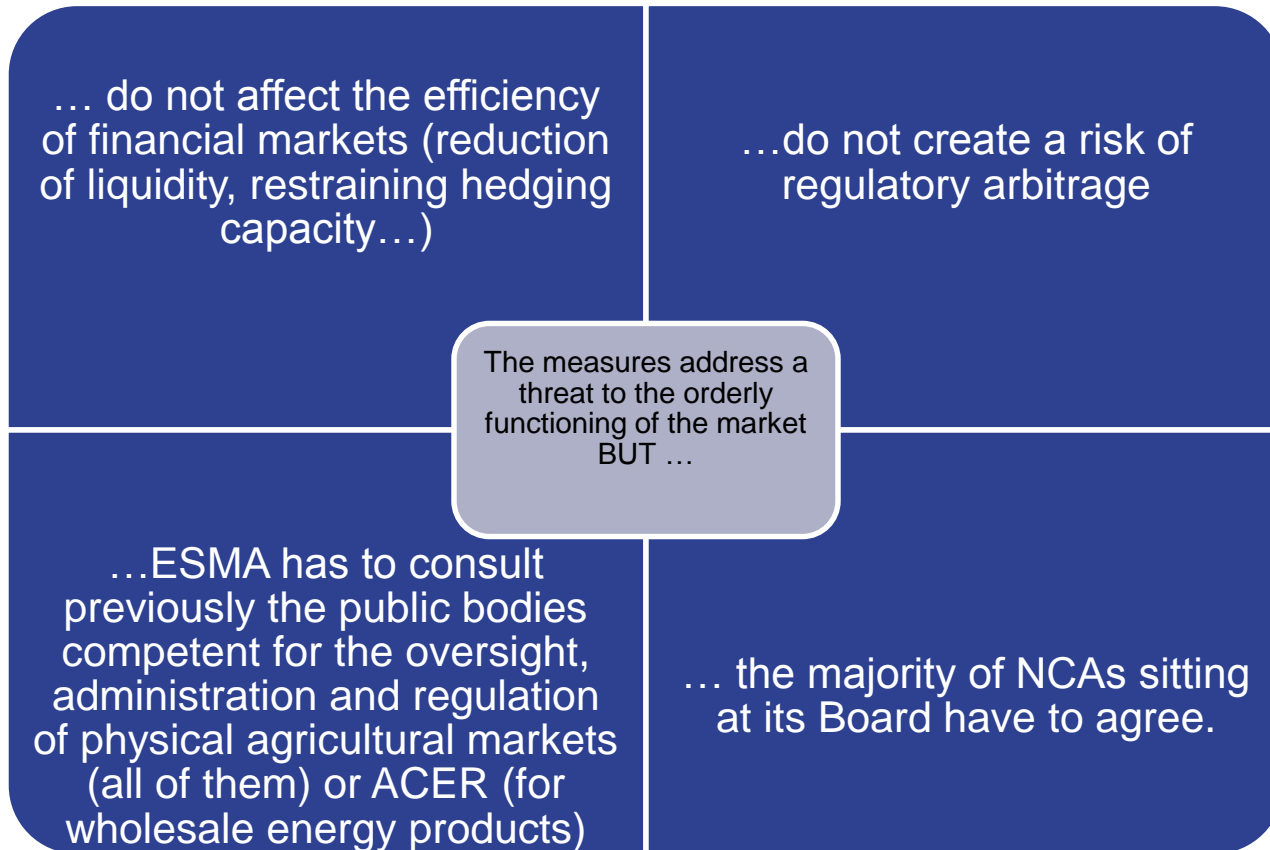


Position management powers





What has to happen so that ESMA makes use of its position management powers?





LINES OF WORK OF ESMA

→ Phases:

- **Technical advice to COM** (delivered in December 2014)
- **Regulatory technical standards** on position limits and ancillary activity (two rounds of consultation, delivered in September 2015)
- **Implementing technical standards** on position reporting (December 2015)
- **Pre-implementation phase** (January 2016-to date):
 - ESMA's Opinions to the rejected COM standards (May 2016)
 - Revision of ITS 4 in light of practical implementation problems
 - Collection of questions and elaboration of responses [publication delayed until COM's endorsement of their own versions of RTS 20 and 21] (ongoing)
 - Review of position limits in liquid and relatively liquid commodity derivatives in the course of 2017 (publication expected before the end of 2017)



POSITION LIMITS: WHAT IS THE ROLE OF ESMA?

- **Opinion:** ESMA shall issue an opinion on whether the NCA followed correctly the methodology in setting the limits. The timeline is 2 months from receipt of notification.

- **Content:** The opinion should assess the compatibility of position limits with:
 - the **objectives** (“prevent market abuse and support orderly pricing and settlement”), and
 - the **methodology** (i.e. the parameters set out in RTS 21 to be taken into account).

- **Review:** ESMA should also monitor at least yearly the implementation of position limits.

- The current estimates from NCAs indicate that there should be around **35 agricultural products** subject to individual analysis. Illiquid instruments subject to the limits set out in RTS 21.



Thank you