MiFIR and IFEU Regulatory Compliance Q&A

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The following are common questions raised by Members and their Clients in discussions with ICE Futures Europe ("the Exchange" or "IFEU") over MiFIR order retention and transaction reporting. If you have any further questions please contact greg.stevens@ice.com or compliance-europe-mifidreporting@theice.com .

Q1	What are IFEU's obligations for Order Retention and Transaction Reporting?
A1	MiFIR requires ICE to retain details of all orders and events on its markets for five years and to provide this data to regulatory authorities on request. The Exchange is also required to transaction report any trade executed by a Member that the Member is not reporting to the FCA (directly or via an ARM). The transaction reports are made on the business day following the trade date. Regardless of how a trading participant connects to the Exchange all business on the Exchange is conducted by a Member either for themselves or for their client. The Exchange's obligations under MiFIR are on the Member's order and execution. The data the Exchange requires to be stored in ICE Identifier Admin ("IIA") and referenced by the order/transaction flow must reflect the details of the Member's dealing not that of their client.
Q2	How can data be stored in IIA?
A2	There are three ways data can be entered into IIA: 1. Directly via the user's screen. 2. User upload of a csv file. 3. Direct file transfer into ICE's Managed File Transfer system (MFT).
Q3	Is the same data required for Order Retention and Transaction Reporting?
A3	The data is nearly identical. The main practical difference that causes issues is that transaction reporting requires the branch countries of the supervisors of the Execution within Firm person and the Investment Decision person when these are populated.
Q4	How can I tell if any of my orders or trades are missing MiFID data.
A4	Where the Exchange identifies orders or transaction report errors the details are included on daily emails sent to Members. When the Exchange's trading system identifies that the MiFID configuration is invalid orders using the configuration will be rejected with an error message. Also, there are monthly reports of the full outstanding errors for orders and errors placed in each Members' MFT folders on the first day of each month. The reports may be found: Transaction errors /mifid/transaction Order errors /mifid/order There are two types of report "MCKER" where the Exchange is missing all the MiFID data (typically from 2018) "CER" where the Exchange has MiFID data but it's incomplete or incorrect.

	If there are no errors no reports are produced.
Q5	**Why are there so many order errors from Q1 2018**
A5	As MiFID II came into force it was clear that much of the market had yet to set up its MiFID reference data, to avoid significant market disruption the Exchange after consultation with regulatory authorities allowed trading to continue without rejecting orders that did not have MiFID information. As the market improved its compliance the Exchange began tightening its MiFID controls to today's standard where its MiFID client error rate is approximately 1 in 40 million.
Q6	**How does the Exchange determine who has dealt?**
A6	Every trade on ICE has to be directed into a clearing account. Every clearing account has a Responsible Individual Mnemonic (RIM) which is attached to a Responsible Individual (RI) and every RI is registered to a Member. This is the Member that dealt. This is derived from the Exchange's past when trades were negotiated in physical trading pits and staff in the pits were supervised by the RIs. However, the Exchange believes that it is still an effective method in today's electronic markets. Clearing Members will naturally select their own RIMs for their clients' clearing accounts. Where the client is also a Member of the Exchange the non-clearing Member's RIMs may also be selected which will result in the non-Clearing Member being the dealing Member. When a block trade is registered by a block-only Member the same process is followed. The block-only Member will only be the dealing Member if it is acting such that one of its RIMs are being used on the clearing accounts.
Q7	**What are the different numeric company values used by ICE?**
A7	Trading on the Exchange involves up to three different company entities: 1) The participant or trading company which represents who originates the order, this is the mandatory tag 109 in the FIX API. 2) The company which indicates who will be the Member clearing any consequent trade, tag 439 in the FIX API. 3) The Dealing Member is the company to which the RI and RIM on the trade's clearing account are registered. This indicates the Member who dealt. The IIA data that is required to support the order should be supplied under the participant company. Note that where the Clearing Member and Dealing Member are different the Exchange holds the Dealing Member responsible for the correct provision of MiFID information. This company structure is not hierarchical, participant companies are not "children" of dealing Member companies or clearing Member companies. The same MiFID data stored in a participant company can be used to support trades executed through several different Dealing Members.

Q8	**What is a Compliance Key?**
A8	A Compliance Key is a unique internal IFEU systems reference that is used to identify specific MiFID data within a participant company. A key with valid data is an essential step in ensuring that orders and trades are compliant with MiFIR. Compliance keys are generated in two ways: 1) Automatically where ICE trading systems receive an order with a new unique set of MiFID data points for a specific participant company. 2) When an IIA user creates a profile which manually links specific MiFID information. The actual key is a number between fourteen and twenty characters in length. There is an enquiry function in IIA that will allow a Member to see which MiFID data an individual key is linking.
Q9	**Why does IFEU require a Member to create a profile when adding historical MiFID data?**
A9	Simply adding data to IIA does not enable the Exchange to apply it to trades and orders, this requires a Compliance Key. The creation of a profile will automatically generate a new Key.
Q10	**How can a Member see what trades they have done?**
A10	Every Dealing Member receives a daily trade file for each MIC in their MFT folder (/mifid/reports/transaction) detailing the trades that the Exchange has seen them deal. This report contains the MiFID fields the Exchange has used, including the Trading Venue Transaction ID Code ("TVTIC"). Additionally, there is also a daily file for each Clearing Member summarising their trading activity and identifying which RIM has been used (/mifid/reports/trade_count).
Q11	**How are ICE Block Trades treated under MiFIR?**
A11	Ordinary block trades are negotiated away from the Exchange and as such there are no orders on the Exchange except where the block triggers a Block Transparency Auction (BTA). A BTA requires the Member to provide the same MiFIR order information as a standard order book order. This is achieved by the correct compliance profile being selected as the block is registered. When the Exchange has to transaction report one or both sides of the block trade the profiles used as it is registered provide the required information. The selection of a profile is mandatory for the registration process except where a default profile as been set up in IIA. Defaults can be established for an individual user or for a trading participant company. Non-BTA block trades executed by a Member who is a MiFID Investment Firm are not transaction reported by the Exchange. This is the only trading flow where the Exchange does not require any MiFID data as the Exchange has no order retention or transaction reporting obligations under MiFIR.
Q12	**Can everyone set up and use a Default Company Profile?**
A12	No. As the profile identifies both the Execution within Firm and the Investment Decision when a Member is dealing, a single default value will not provide the correct information except in the very rare case where a Member has only one individual or algo performing these functions. However, default profiles can be set up for clients of Members.

Q13	**How should Trading Capacity be determined?**
A13	Trading Capacity has only three possible values: DEAL (tag value 0) - Dealing on one's own account, i.e. the Dealing Member is taking the position (not an affiliate). MTCH (tag value 1) - Dealing on a matched principal basis. AOTC (tag value 2) - Any other trading capacity. DEAL can only be used when the Dealing Member is taking the trade onto their balance sheet. They may still be executing Client business but the trade is not an agency contract. Clients trading for their own account should not use DEAL as the trading capacity has to reflect what the Dealing Member is doing.
Q14	**What is Execution within Firm (EwF)?**
A14	EwF identifies the person or algo that controls the order in the market. If the dealing Member is not performing this then it should normally be set to short code 3 which always signifies "NORE". Conversely, short code 3 should not be used when a Member is dealing for themselves. The short code is a numeric value created in IIA by a Member or their Client to identify a specific element of MiFID information such as a natural person's identity or a corporate body's LEI.
Q15	**What is Investment Decision (ID)?**
A15	ID Identifies the person or algo who made the decision to buy or sell. If the dealing Member is not performing this then it should be left blank.
Q16	**Which party or person is the Client?**
A16	Client identifies the client of the Member. If there is a chain of investment firms or other trading parties between the Exchange and the end client then the client to be used is the next party in the chain. I.e. if Retail Client A places and order with their Broker B who passes it to Broker C who is a Member of IFEU then the client is Broker B, not Client A. When the trading capacity is set to DEAL there is no client needed as the Exchange will use the LEI of the Dealing Member as the party buying or selling.
Q17	**How should I reflect a client entity change in IIA?**
A17	The best way to show a new entity in IIA is to create a new short code and then ensure that from the cutover to the new client entity your order flow indicates the new short code. It is not advisable to edit the existing short code to the LEI of the new client. ICE's systems assume that changes to individual short codes reflect correcting errors on those codes and the Exchange may then apply them retroactively.
Q18	**When does new data need to be in IIA?**
A18	Data should be entered in IIA before any orders are submitted to remove the risk that orders are rejected by the Exchange's systems. The Exchange applies IIA data to its order and trade records at the end of each trading day (23:00 UK time). If the data in IIA has been modified during the day the final version will be applied to all the records for the day. If there are any previous days' records in an error state the IIA data will also be applied to these records.

Q19	**What should a Member or Client do if they identify that their IIA MiFID data is not correct?**
	Members can correct transactions that the Exchange has to report to the FCA by modifying the records in their daily transaction files and resubmitting the files to the Exchange in MFT. The Exchange will then automatically update the transaction records and correct the reports to the FCA. If the correction file arrives before 12:00 UK time on the day after the transaction is executed the Exchange's systems will correct the trade before it is sent to the FCA. A detailed guide to this procedure can be found here. If a Member becomes aware that some of the data they have used to support their order flow is not correct they should contact the Exchange (Compliance-Europe-MiFIDReporting@TheIce.com). They will need to ensure that the correct data is updated into IIA and that profiles have been created to link this data. The Exchange will then make specific corrections to apply the corrections to its records.
Q20	**How should an Exchange Member who is a third country firm that has FCA authorisation to conduct investment banking business in the UK attest its MiFID status in IIA?**
	Sup 17A.1.2 of the FCA handbook confirms that GEN 2.2.22AR "has the effect of requiring *third country investment firms* to comply with the transaction reporting requirements in article 26 of *MiFIR* and MiFID RTS 22 as though they were *MiFID investment firms*." Accordingly, Members with this authorisation should attest as MiFID investment firms. MiFID investment firm status attestation is made on-line in IIA in the "Companies" part of the system by individuals at the Member who have been give access.
Q21	**How frequently will the Exchange require Members to attest their MiFID Investment Firm status?**
	The Exchange will require this every year by 31 August, as whilst this is static data it clearly can change. The Exchange will publish circulars reminding firms of this obligation annually.