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Implementing the requirements to report exchange traded derivative contracts to trade repositories

Meeting with ESMA on 18 January 2013

EMIR

- Article 9(1): *“Counterparties and CCPs shall ensure that the details of any derivative contract they have concluded and of any modification or termination of the contract are reported to a trade repository”.*
- Article 2(5): *“‘derivative’ or ‘derivative contract’ means a financial instrument as set out in points (4) to (10) of Section C of Annex I to Directive 2004/39/EC as implemented by Article 38 and 39 of Regulation (EC) No 1287/2006”. i.e. MiFID, Annex I, Section C, points 4-10.*

Regulatory Technical Standards (RTS)

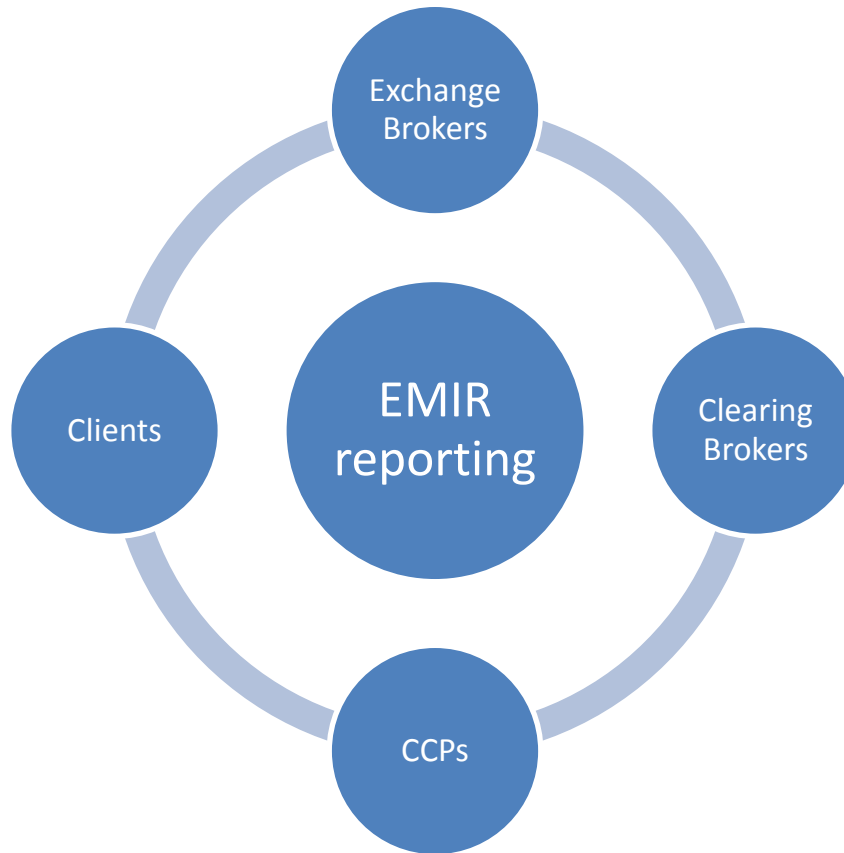
- Article 1(2), Draft RTS on TRs: *“conclusion of a contract shall mean ‘execution of a transaction’ as referred to in Article 25 (3) of Directive 2004/39/EC [MiFID]”*
- Article 2(1) Draft RTS on TRs: *“Where an existing contract is subsequently cleared by a CCP, clearing should be reported as a modification of the existing contract”*
- Article 2(2) Draft RTS on TRs: *“Where a contract is concluded in a trading venue and cleared by a CCP such that a counterparty is not aware of the identity of the other counterparty, the reporting counterparty shall identify that CCP as its counterparty”*
- Clarification is required for ETD on the ‘conclusion of a contract’ from the vantage point of:
 - Executing broker
 - Clearing broker

Who should report, and at what level?

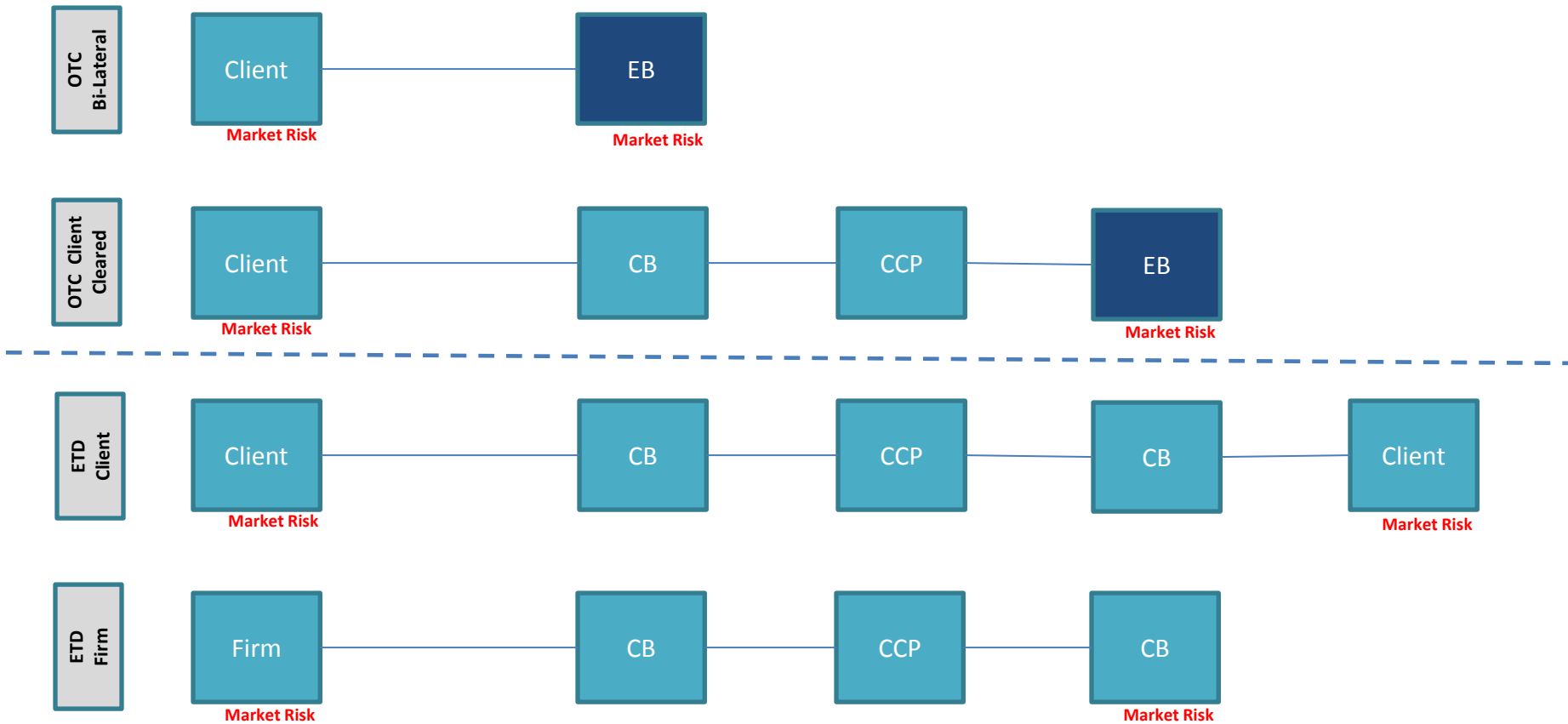
| Reporting level | Who reports | FOA comments, pros & cons |
|----------------------------------|--|--|
| Report at Trade Execution level | Executing Broker (EB) | <ul style="list-style-type: none"> ▪ ‘Conclusion of a contract’ (under EMIR) = ‘execution’ (under MiFID) so reporting at trade execution level may always be required. ▪ Unlike OTC contracts, lifecycle events relating to executions are not tracked at the trade execution level. ▪ Details of subsequent allocation of trades, collateral and margin are not all known at the point of execution. ▪ Assuming that the exchange broker (EB) is different from the clearing broker (CB), the EB will not be able to track amendments carried out to the trade at the clearing level (e.g. once trades are allocated). ▪ Is this level of reporting required to meet the objectives of EMIR? |
| Report at Trade Allocation level | Central Counterparty (CCP)/ Clearing Broker (CB) | <ul style="list-style-type: none"> ▪ This level of reporting for listed derivatives represents the end state of a trade. ▪ However, note that life cycle events relate to positions, and are not maintained at trade level by counterparties and CCPs. |

- Trade Execution:
 - Firm acting as EB will process order and execute on exchange
- Trade Allocation:
 - Firm acting as EB only will allocate trade to be given up to CB
 - Firm acting as CB only will accept give in trade and allocate cleared trades to a) firm account b) client account
 - Firm acting as EB & CB will allocate cleared trade to a) firm account b) client account

Industry Interdependencies



OTC vs. ETD Comparison



Open Questions

- Some additional open questions still need to be worked through and discussed, for example:
 - The handling of TR authorisations for both OTC and ETD.
 - Where a TR is pre-selected by a firm which does not subsequently become authorised for a relevant asset class (but another TR is), it will take >90 days (for that other TR and the firms) to build, connect & test.
 - Back-reporting is possible only on a position level basis.



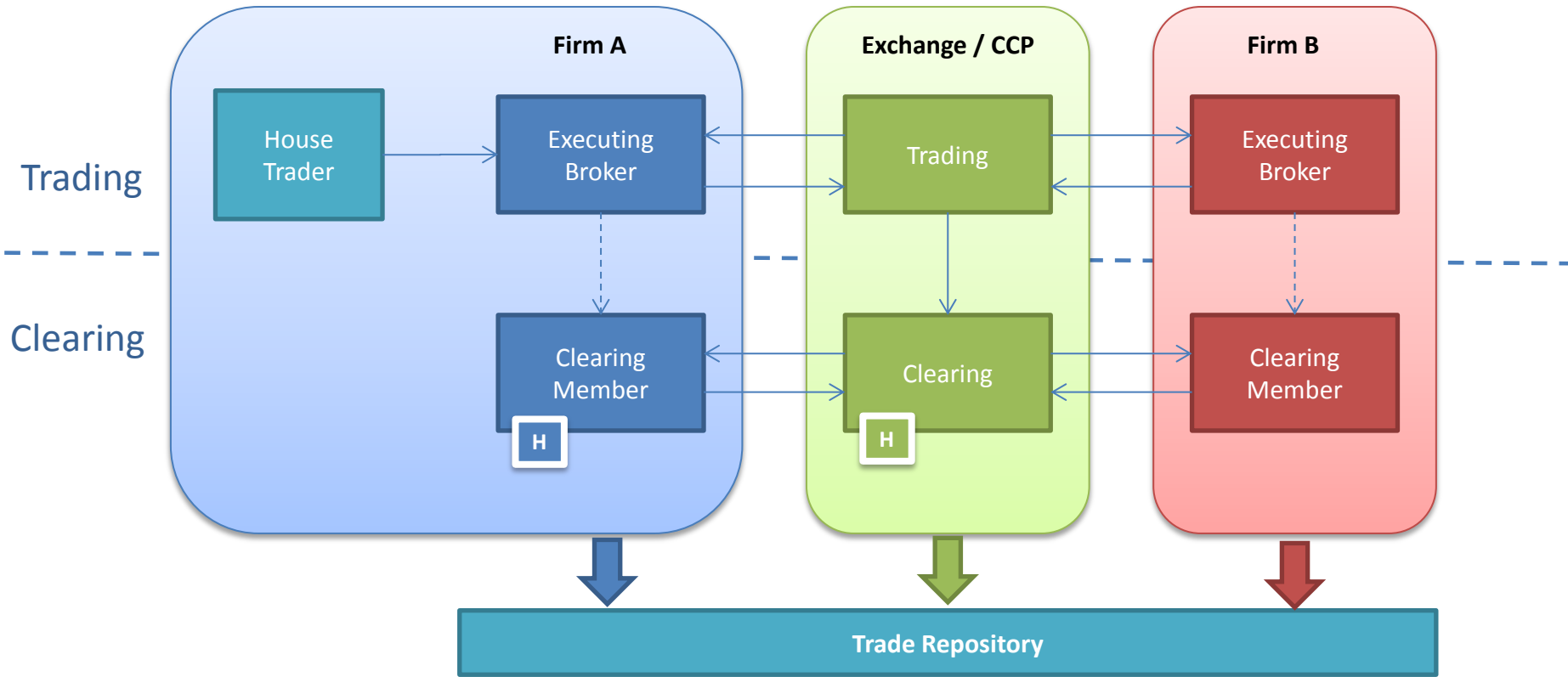
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Appendix 1

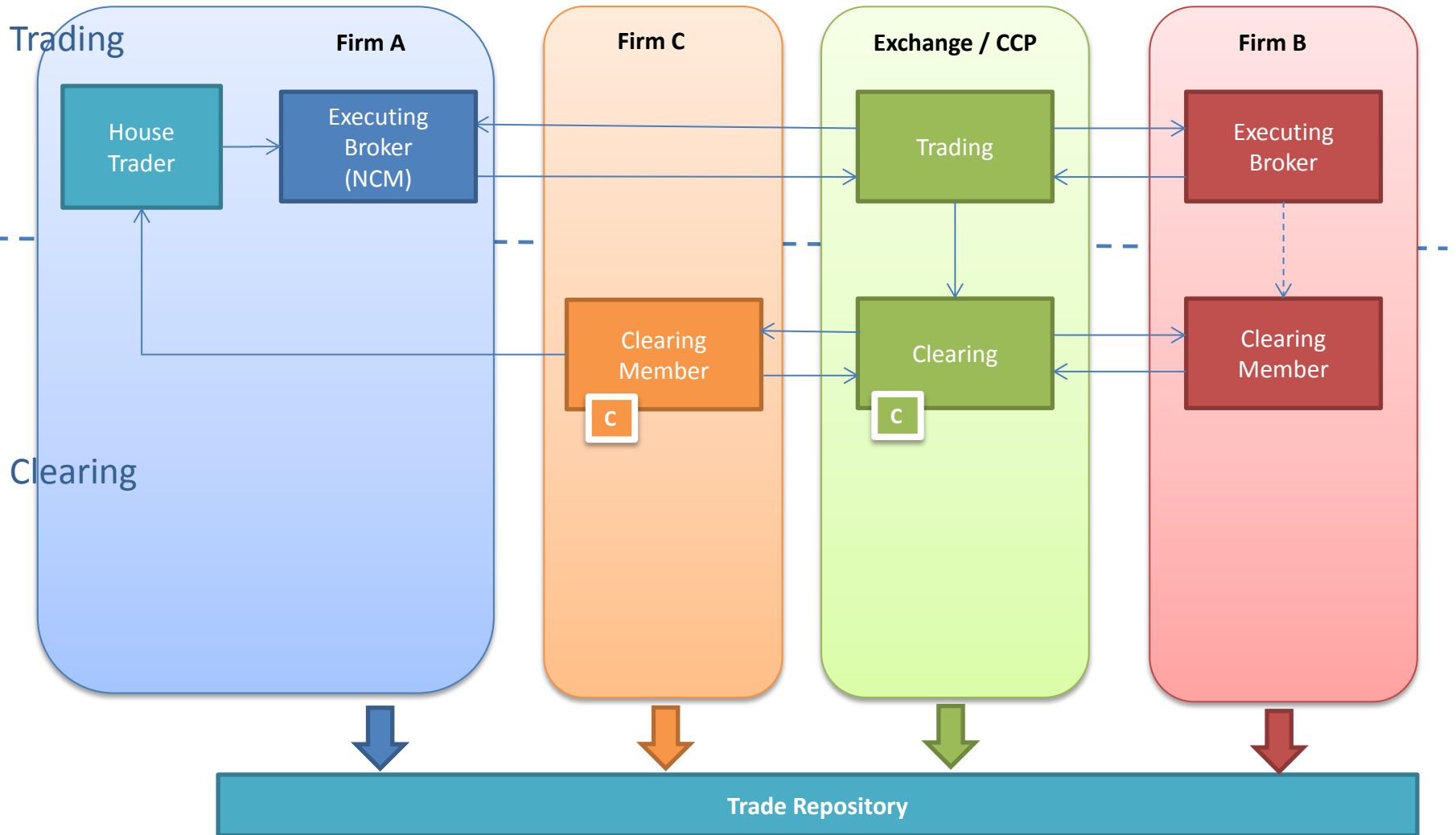
ETD trade scenarios

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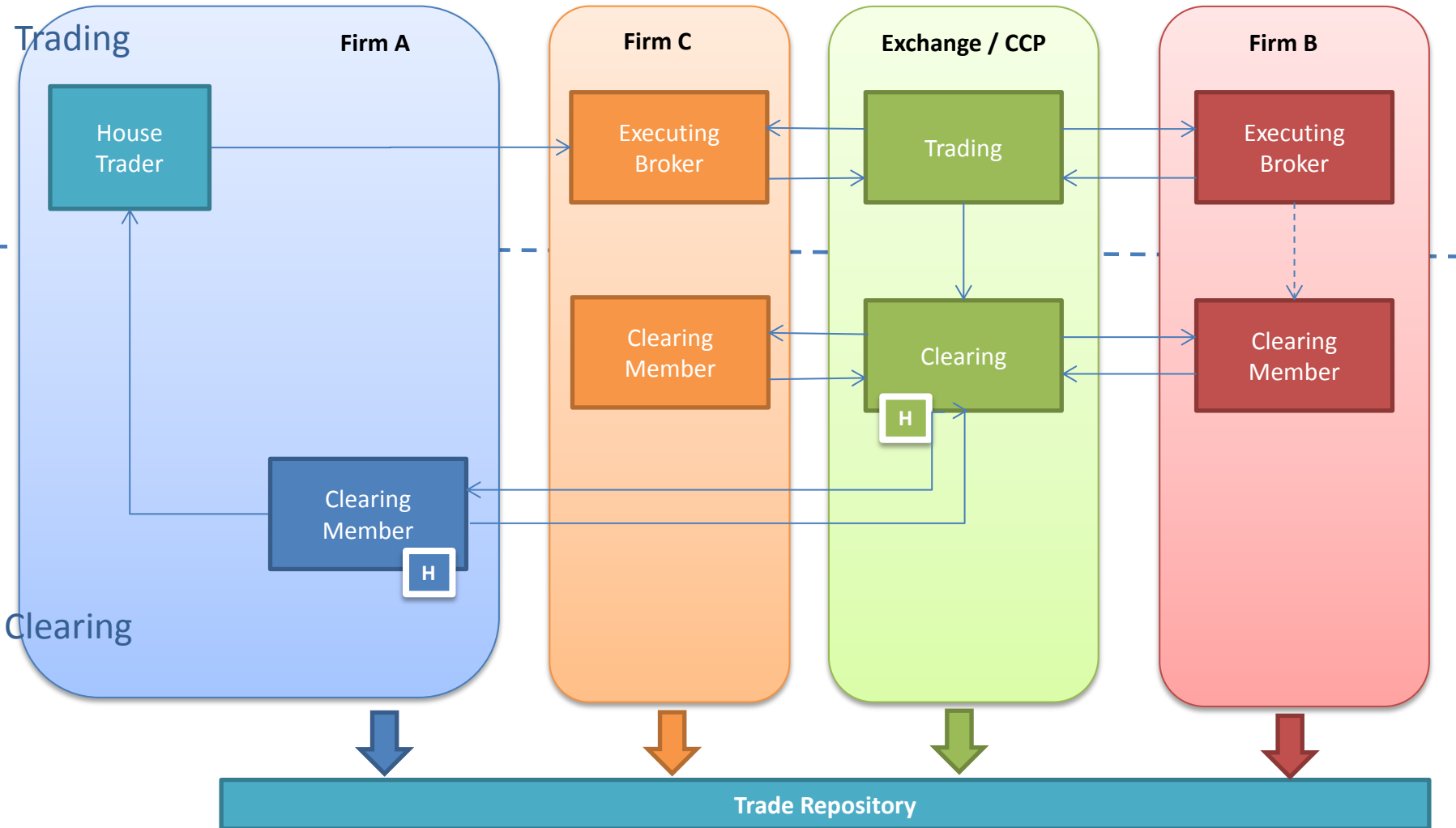


Legend:
H – House account
C – Client account

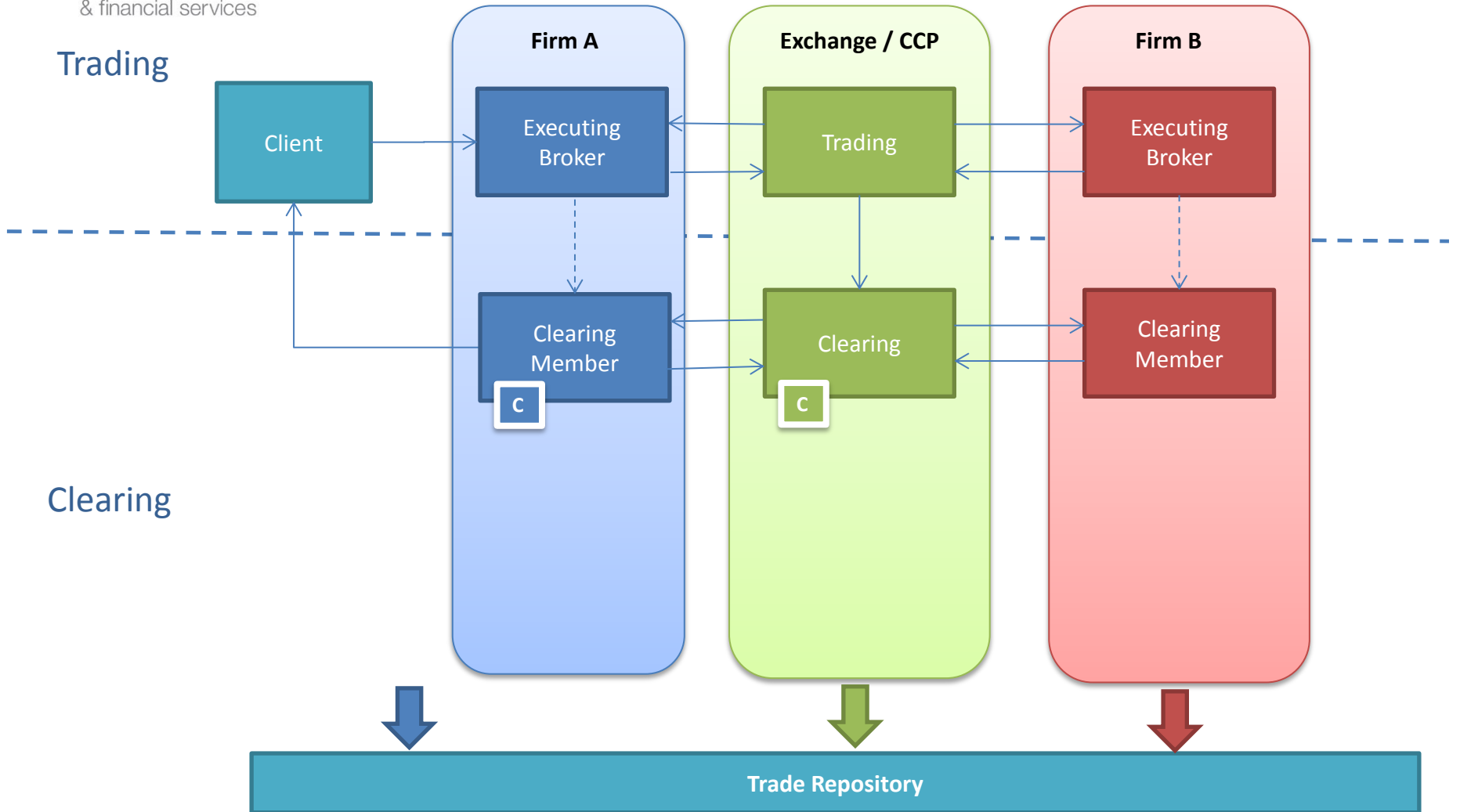
Scenario 2: House trader executes in house (NCM) and clears via a third party clearer



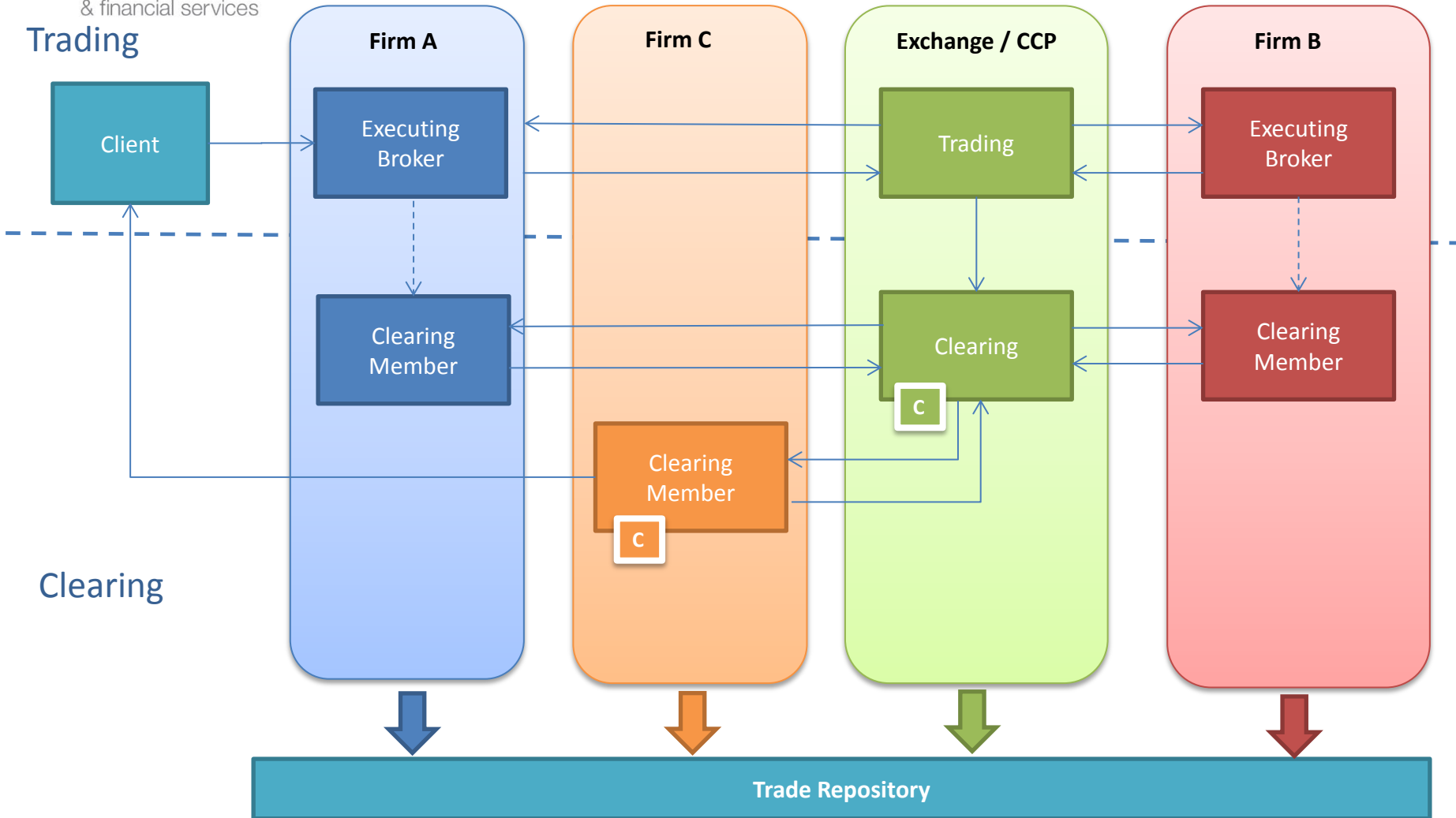
Scenario 3: House trader executes via a third party and clears in house



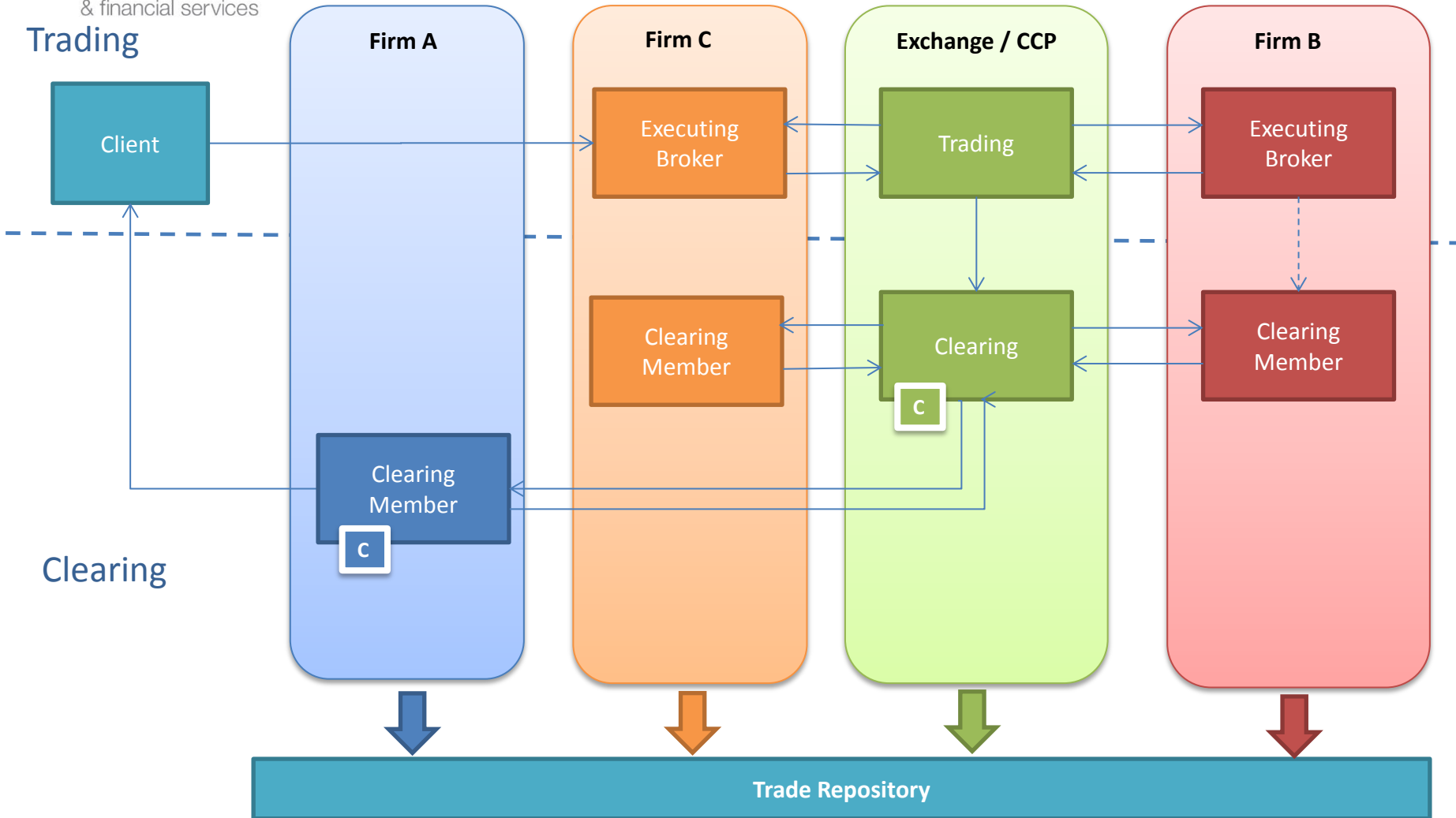
Scenario 4: Full Service - Client executes and clears with the same firm



Scenario 5: Execution-Only - Client executes via the EB and clears with a third party



Scenario 6: Clearing-only - Client executes via a third party and clears with the CM



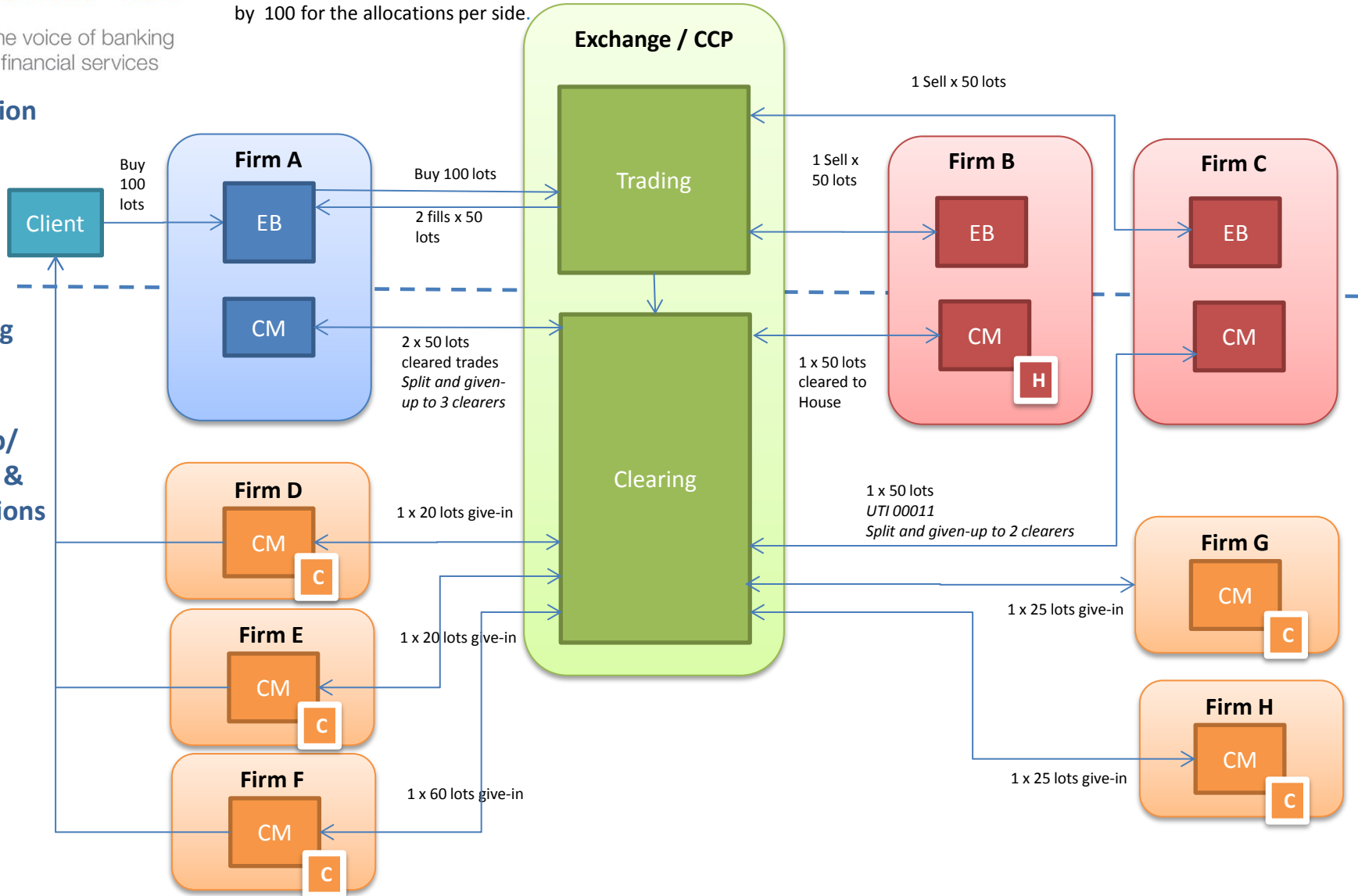
Scenario 7: Client executes via one EB and clears with multiple CM's

Example: 1 client trade to buy 100 lots results in 13 trades to be reported, which could increase by 100 for the allocations per side.

Execution

Clearing

Give-up/ Give-in & Allocations



Scenario 7a: Executing broker gives up to Clearing broker

Example: 1 client trade to buy 100 lots results in 13 trades to be reported, which could increase by 100 for the allocations per side.

Trading

