

EU Regulation of CCPs

Dermot Turing
April 2008

**CLIFFORD
CHANCE**

CCP12, Tokyo 2008

EU regulatory environment for CCPs

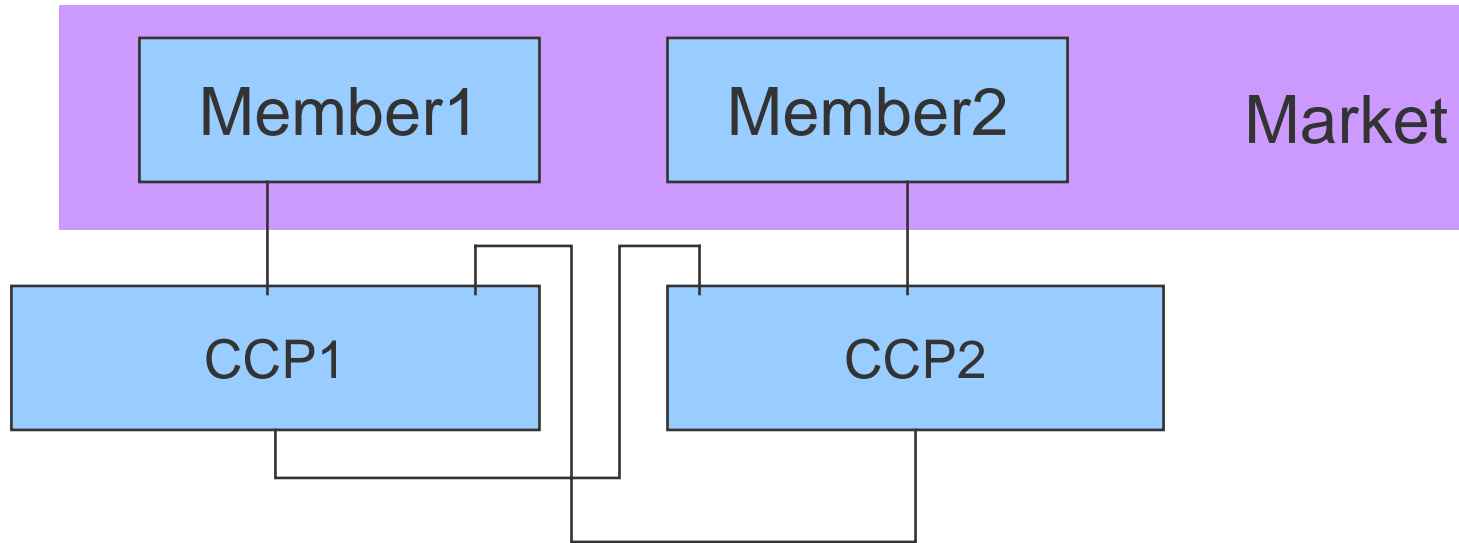
- No uniform regulatory status
 - Bank status required: FR, BE
 - Specific “recognised clearing house” regime: UK
 - Financial institution status unavoidable: DE
 - No specific requirement: IT, NL
- No harmonised rules on capital, governance, risk
 - Soft law in the Code
 - CPSS/IOSCO standards
- Unclear whether a CCP is a “financial institution”
 - Regulatory capital (deductions, consolidated supervision)
 - Tax (withholding and transfer tax exemptions)
- No passport to conduct business in other member states

MiFID

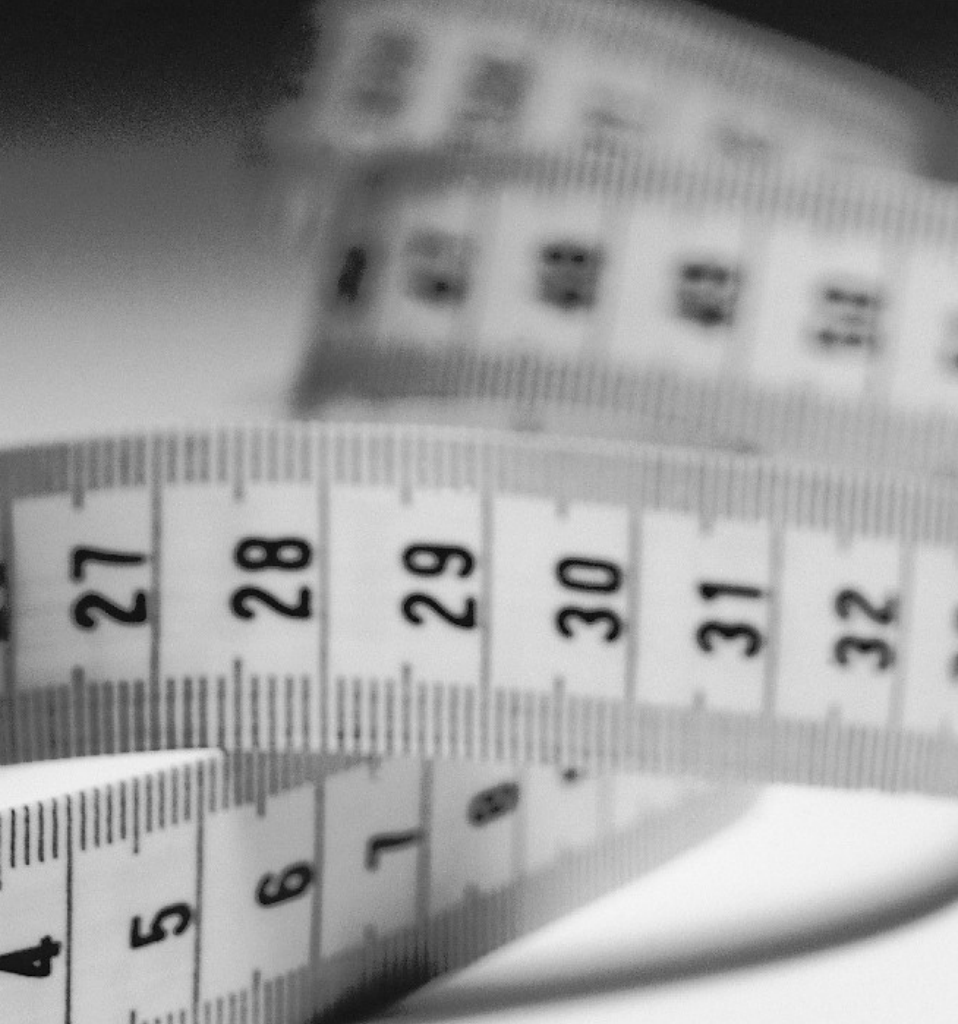
How has MiFID changed things?

- All EEA firms must be allowed access to EEA CCPs on same criteria (not new)
- Member states may not restrict use of local CCP to clearing of transactions on local market/MTF
- Regulated markets must allow members to choose a settlement system (but not CCP)
- Regulators may not prevent MTFs and exchanges using foreign CCPs/C&S systems, but can veto based on risk to
 - efficient and economic settlement
 - orderly functioning of markets
- Local regulator to take account of existing supervision
- But national regulators can still protect incumbents

Links between CCPs



- Multiple CCPs serving the same market require cross-membership
- Implication for members is dilution of the risk management of the more rigorous CCP
 - margin, capital, default backing, legal protection
 - lack of legal and regulatory playing-field inhibits links



Dermot Turing

Tel: +44 20 7006 1630

Fax: +44 20 7006 5555

Email:

dermot.turing@cliffordchance.com

EU Regulation of CCPs

**CLIFFORD
CHANCE**

www.cliffordchance.com

Clifford Chance, 10 Upper Bank Street, London, E14 5JJ, UK

© Clifford Chance LLP 2008

Clifford Chance LLP is a limited liability partnership registered in England and Wales under number OC323571

Registered office: 10 Upper Bank Street, London, E14 5JJ

We use the word 'partner' to refer to a member of Clifford Chance LLP, or an employee or consultant with equivalent standing and qualifications

UK/1666924