

REGULATION OF CENTRAL COUNTERPARTIES

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The CCP Regulatory Landscape

- International Context
 - OTC Derivatives CCPs
 - G-20 Pittsburg Summit (2009)
 - FSB Four Safeguards for OTC derivatives CCPs (2012)
 - All CCPs
 - CPSS-IOCO Principles for Financial Market Infrastructures (2012)
 - EMIR (2012)
- Framework for US Prudential Regulation of CCPs
 - Pre-DFA Regulatory Authority
 - Dodd-Frank Act, Titles VII and VIII (July 2010)
 - Title VII – OTC Derivatives CCPs
 - Title VIII – Systemically Important CCPs

FSB Four Safeguards

- Fair and open access by market participants to CCPs, based on transparent and objective criteria
- Cooperative oversight arrangements between relevant authorities, both domestically and internationally and on either a bilateral or multilateral basis, that result in robust and consistently applied regulation and oversight of global CCPs
- Resolution and recovery regimes that aim to ensure the core functions of CCPs are maintained during times of crisis and that consider the interests of all jurisdictions where the CCP is systemically important
- Appropriate liquidity arrangements for CCPs in currencies in which they clear

CPSS-IOSCO:

Five Regulatory Responsibilities

- **Responsibility A:** FMIs should be subject to appropriate and effective regulation, supervision, and oversight by a relevant authority
- **Responsibility B:** Authorities should have the powers and resources to carry out effectively their responsibilities in regulating, supervising, and overseeing FMIs
- **Responsibility C:** Authorities should clearly define and disclose their regulatory, supervisory, and oversight policies with respect to FMIs
- **Responsibility D:** Authorities should adopt and consistently apply the PFMI
- ➔ • **Responsibility E:** Relevant authorities should cooperate, both domestically and internationally, as appropriate, in promoting the safety and efficiency of FMIs

CPSS-IOSCO PFMI

General organization

Principle 1: Legal basis

Principle 2: Governance

Principle 3: Framework for the comprehensive management of risks

Color Key

Red = new.

Credit and liquidity risk management

Principle 4: Credit risk

Principle 5: Collateral

Principle 6: Margin

Principle 7: Liquidity risk

Settlement

Principle 8: Settlement finality

Principle 9: Money settlements

Principle 10: Physical deliveries

CSDs and exchange-of-value systems

Principle 11: CSDs

Principle 12: Exchange-of-value settlement systems

Default management

Principle 13: Participant-default rules and procedures

Principle 14: Segregation and portability

General business and operational risks

Principle 15: General business risk

Principle 16: Custody and investment risks

Principle 17: Operational risk

Access

Principle 18: Access and participation requirements

Principle 19: Tiered participation

Principle 20: FMI links

Efficiency

Principle 21: Efficiency and effectiveness

Principle 22: Communication procedures and standards

Transparency

Principle 23: Disclosure of rules, key procedures, and market data

Principle 24: Disclosure of market data by TRs

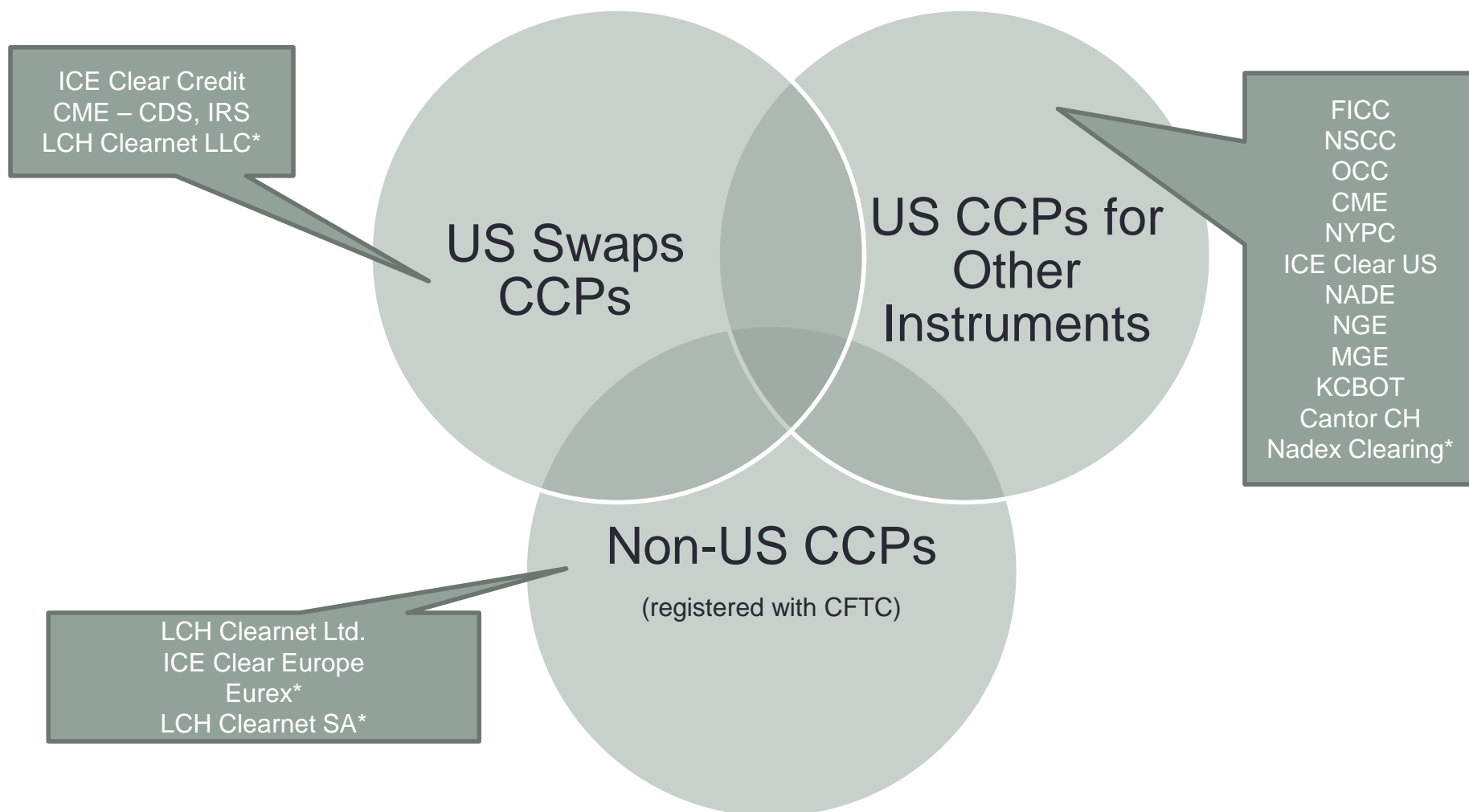
Pre-DFA Regulatory Authority

- Securities and Exchange Act (1975 Amendments)
 - Clearing Agencies (section 17A and 19)
- Commodity Futures Modernization Act (2000)
 - Derivatives clearing organizations
- Federal Reserve Act (1913)
 - Supervision of member institutions
 - Supervision of Edge Act corporations

Dodd-Frank Act

- Title VII – OTC derivatives
 - Section 723 – Mandatory clearing of swaps, open access, amended process to introduce new products and otherwise amend their rules
 - Section 725 - CCPs subject to a significantly larger set of risk management principles
- Title VIII - Enhanced supervision and regulation of systemically important financial market utilities
 - Risk management standards
 - Ex ante review of changes materially affecting risks
 - At least annual examinations
 - Enhanced enforcement powers

The US Regulated CCPs



* = DCO application pending

Focus of CCP Prudential Regulation

- Ability to perform on obligations in a timely manner with a high degree of confidence under a wide range of potential stress scenarios
 - including, but not be limited to, the default of the one/two participant(s) and its/their affiliates that would generate the largest aggregate credit exposure to /liquidity obligation of the CCP in extreme but plausible market conditions
- Key focal points
 - Framework for comprehensive management of risks
 - Ability to effectively measure, monitor and manage risks
 - Maintenance of sufficient financial resources and liquidity
 - Sound settlement arrangements and processes
 - Access and disclosure
 - Segregation and portability of client positions and margin