

Regulation and supervision: where Europe is heading

Judith Hardt

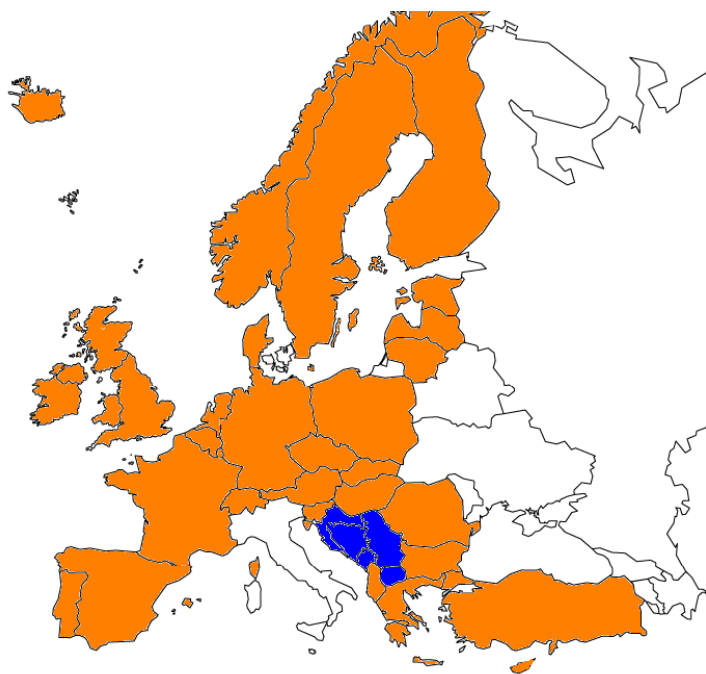
Secretary General, FESE

SFOA Conference

6th September 2012, Interlaken

About FESE

FESE represents in total 39 Securities Exchanges (in equities, bonds, and derivatives) through 20 Full Members from all EU Member States and Iceland, Norway and Switzerland as well as 7 Observer Members from European emerging markets.



39 Securities
Exchanges through
20 Full Members from
30 countries



4 Observer Members from 4 countries)

1. Implementing the G20 commitment into EU law
2. Regulating Clearing: European Market Infrastructure Regulation (EMIR)
3. Regulating Trading: Review of the Market in Financial Instruments Directive (MiFID)
4. Setting EU Standards: The role of ESMA

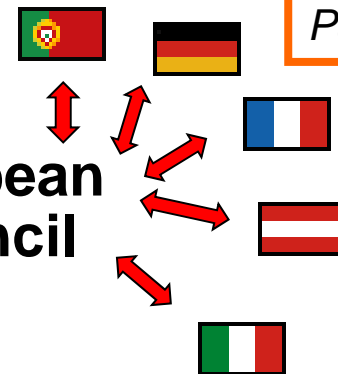
Merry go round

Initiates legislation

European Commission

European Council

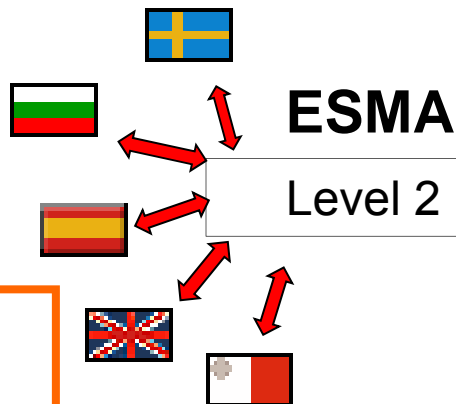
Co-decision power with EU Parliament



Co-decision power with EU Council

European Parliament

Level 1



Drafts standards



1. Implementing the G20 commitment into EU law

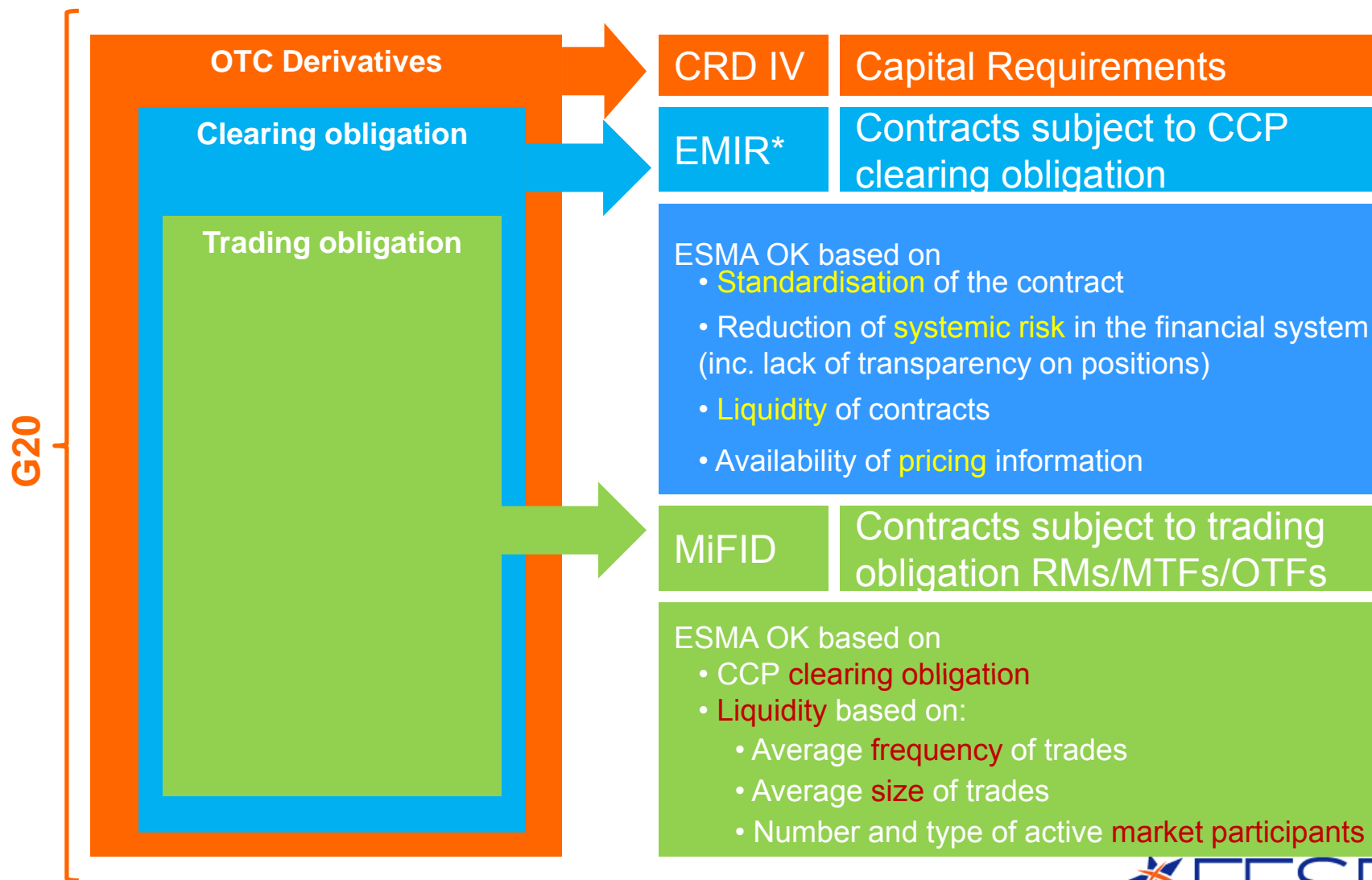


The G20 commitments

- In September 2009, the G20 leaders agreed that “All standardized OTC derivative contracts should be traded on exchanges or electronic trading platforms, where appropriate, and cleared through central counterparties by end 2012 at latest. OTC derivative contracts should be reported to trade repositories. Non-centrally cleared contracts should be subject to higher capital requirements”.



G20 implementation in the EU for OTC derivatives

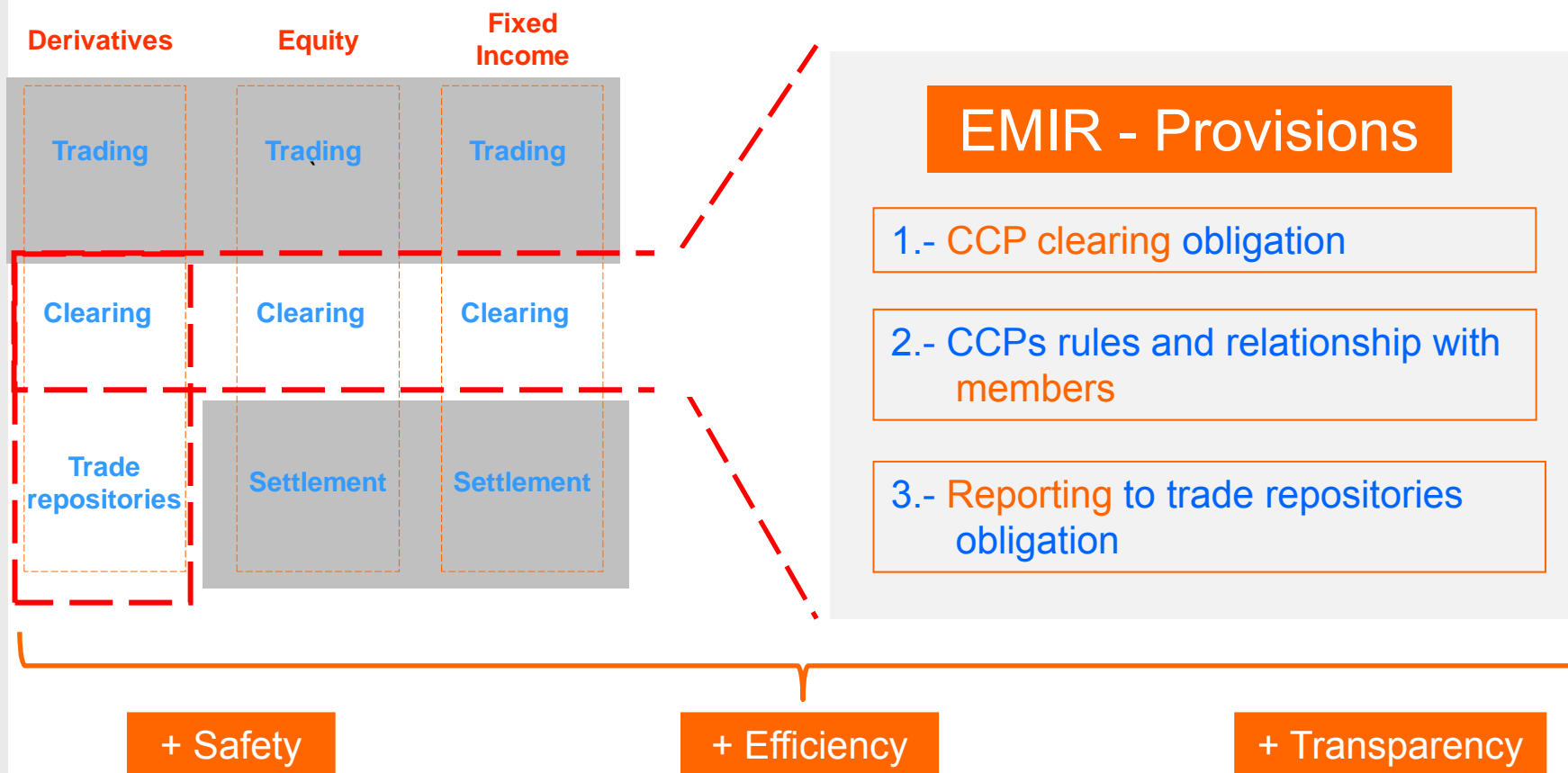


* EMIR also includes a requirement for derivatives to be reported to Trade Repositories

2) Regulating Clearing: European Market Infrastructure Regulation EMIR



Main provisions in EMIR



EU legislation in theory

Adoption of the framework legislation

Level 1



European Parliament



European Commission



European Council

Detailed implementing measures

Level 2



European Commission

Consistent and convergent implementation

Level 3



ESMA



National supervisory authorities

Enforcement of timely and correct transposition

Level 4



European Commission

EU legislation in practice: The EMIR example

Adoption of the framework legislation

Level 1

Article 4 of legislation: All 'eligible' derivatives should be cleared in a CCP

Detailed implementing measures

Level 2

ESMA shall develop draft regulatory technical standards specifying the contracts

Consistent and convergent implementation

Level 3

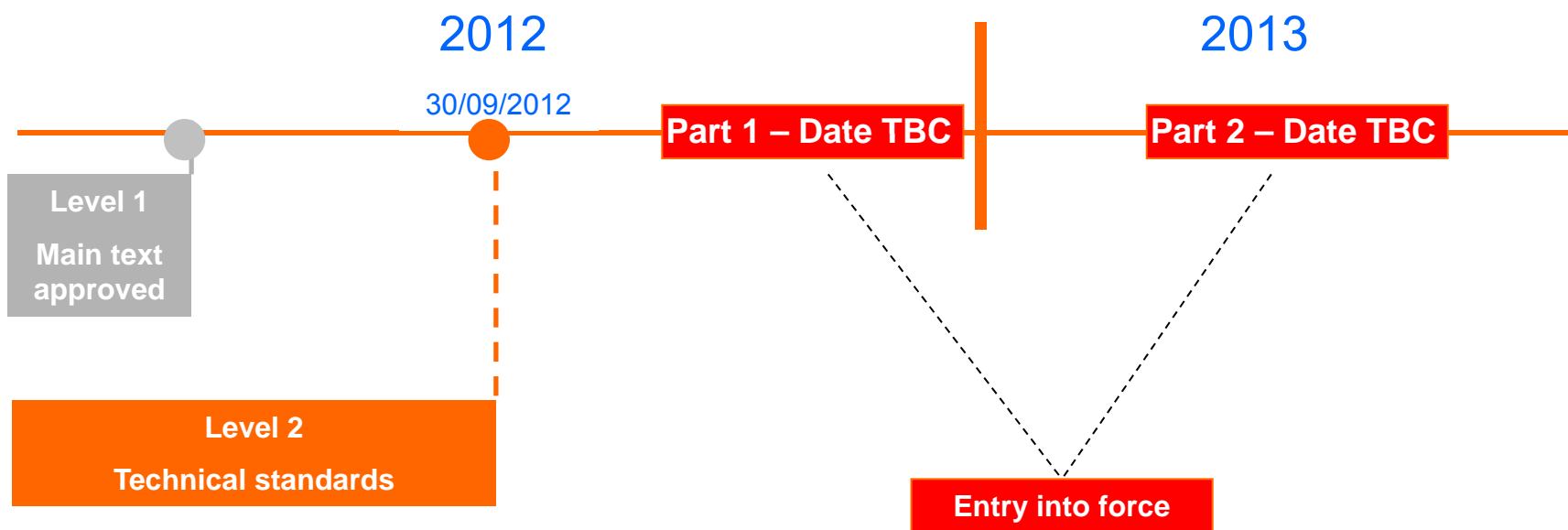
The application of this article has to be consistent and convergent across the EU

Enforcement of timely and correct transposition

Level 4

This article needs to be enforced by *date still to be determined*

Expected timing



3) Regulating Trading Market in Financial Instruments Directive The MiFID Review

















Organised Trading facilities (OTF)

MARKET RULES	Trading Venue			MiFID 2	
	Multilateral trading			Bilateral trading	
	Regulated Markets	MTF	Organised Trading Facility	Systematic Internalisers	OTC
Pre-trade transparency	✓	✓	✓	✓ / ✗	✗
Post-trade transparency	✓	✓	✓	✓	✓
Non-discretionary execution*	✓	✓	✗	✓	✗
Fair/Open/ Non-discriminatory Access	✓	✓	✗	✗	✗
Market Abuse Monitoring	✓	✓	?	✓	✗
Conflicts of Interest	✓	✓	✓	✓	✗

*'Non-discretionary execution' means that the orders are executed in a predictable way.

OTFs and SEFs – a quick comparison

	OTFs		SEFs	
Requirements				
Pre-trade transparency	Yes		Yes	
Post-trade transparency	Yes		Yes	
Access	Discriminatory		Non-discriminatory	
Execution	Discretionary		Non-discretionary	
US-style Position limits or similar regime	Choice Allowed		Only US-style position limits	
Proprietary trading	Not allowed		Not allowed	
Transaction reporting	End of day		Within 15-30 minutes to be sent to Trade Repositories	

 SDP = Single Dealer Platform.

Expected timing



Thank you!