

Press release

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FINMA opens consultation on the FINMA Financial Market Infrastructure Ordinance

Parallel to the hearing initiated by the Federal Department of Finance on the Federal Council's draft ordinance (FMIO) to the Financial Market Infrastructure Act, the Swiss Financial Market Supervisory Authority FINMA has opened a consultation on the draft FINMA Financial Market Infrastructure Ordinance (FMIO-FINMA). In addition to the implementing provisions on reporting requirements for securities trading, the FMIO-FINMA draft ordinance contains such provisions on imposing a clearing duty for derivatives, as well as those on disclosure and takeovers. The consultation runs until 2 October 2015.

Swiss parliament passed the Financial Market Infrastructure Act (FMIA) on 19 June 2015. This Act charges FINMA with issuing implementing provisions on reporting requirements for securities trading, on imposing a clearing duty for derivatives, as well as on disclosure and takeovers. FINMA has thus drawn up the new FINMA Financial Market Infrastructure Ordinance (FMIO-FINMA) and has opened it up to a consultation to run until 2 October 2015.

FMIO-FINMA now includes reporting requirements for securities trading

Reporting requirements under stock-exchange law for securities dealers trading securities listed on a Swiss exchange have been regulated for trading venue participants in the FMIA. Under the FMIA, the term "trading venues" now includes exchanges, as well as multilateral trading facilities. While the draft FMIO drawn up by the Federal Council extends current securities reporting requirements to trading in financial instruments, it also sets out reporting requirements applicable to financial instruments with underlying securities listed at a Swiss trading venue. Moreover, the reporting requirements set out in the FINMA Stock Exchange Ordinance (SESTO-FINMA) have been adjusted and incorporated into the new FMIO and FMIO-FINMA ordinances.

New rules for clearing duties for OTC derivatives trading

The FMIA now also regulates derivatives trading. The implementing provisions drawn up by FINMA set out which derivatives not traded at a trading venue (OTC derivatives) that must be cleared via a central counterparty. This clearing duty is generally specified in the authorisation or recognition FINMA grants to Swiss or foreign central counterparties. In line with recognised international standards, FINMA has defined the criteria according to which derivatives are subject to a clearing duty. The prerequisite is that those derivatives are cleared by a central counterparty.

Participations: ownership and voting rights to be reported separately

With respect to disclosure and takeover law, the relevant regulations from the FINMA Stock Exchange Ordinance have been largely integrated into FMIO-FINMA. These have been tightened and made clearer, and the term “derivative holdings” has been simplified. A key innovation from the FMIA has also been included in the FMIO-FINMA: if shareholders delegate their voting rights to a discretionary proxy, both parties must comply with the reporting requirements.

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