

FINMA Financial Market Infrastructure Ordinance – partial revision

Key points

18 December 2017

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1. FINMA is introducing a clearing obligation for specific types of derivative instrument. Under Article 101 para. 1 of the Financial Market Infrastructure Act (FMIA) and Article 6 para. 1 of the FINMA Financial Market Infrastructure Ordinance (FMIO-FINMA), the categories of derivatives that must be cleared through a central counterparty are to be listed in Annex 1 of the FMIO-FINMA. The obligation will apply to standardised interest-rate and credit derivatives traded over the counter (OTC), which are already subject to this rule under EU regulations.
2. This obligation applies to financial and non-financial counterparties whose positions in OTC derivatives transactions exceed the clearing thresholds set forth under Article 88 FMIO. The central counterparty (CCP) through which trades are cleared must be either authorised or recognised by FINMA.
3. Before the clearing obligation takes effect, FINMA will ensure that a sufficient number of recognised CCPs are available to market participants so that they can fulfil this obligation. If necessary, FINMA will allow for OTC derivatives to be cleared through certain unrecognised foreign-based CCPs for a limited period of time under the terms of Article 97 para. 5 FMIA.