

# Update

## Newsflash July 2016

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### **FinfraG update - Federal Council extends the transitional periods for financial market infrastructures - Implication for Swiss participants**

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The Financial Market Infrastructure Act (FMIA) and its implementing Ordinances (FMIO and FMIO-FINMA) entered into force on January 1st, 2016. In order to implement the new requirements, the FMIA and the FMIO provide for various transitional periods. The financial market infrastructures were in particular provided with a one-year transitional period to fulfil the duties as provided under Art. 129 para. 1 and 2 of the FMIO. These duties mainly concern the pre- and post-trade transparency, the high-frequency trading, as well as the record-keeping duty and the reporting duty to the trading venues, but not to a Trade Repository as set out under Art. 104 FMIA.

On June 29, 2016, the Swiss Federal Council published an official press release confirming that in order to take into account the developments in the European Union, the transitional periods for financial market infrastructures have been extended until January 1st, 2018.

The reasoning behind this extension is that the transitional periods set out in the FMIO were based on the transitional periods defined in the revised Markets in Financial Instruments Directive (MiFID II). Since these deadlines have been extended by one year in the European Union, the Swiss Federal Council has also decided to extend the corresponding transitional periods by one year. The main purpose of this decision is to avoid a Swiss finish and to prevent

competitive disadvantages for the Swiss participants.

This decision to extend the transitional periods for financial market infrastructures has resulted in the modification of Art. 129 para. 1 and 2 of the FMIO, as well as of Art. 58a of the Swiss Stock Exchange Ordinance.

At present, this extension does not concern the transitional periods for the implementation of the derivatives trading duties as provided under Art. 130 and 131 FMIO. However, the extension of such transitional periods, especially the transitional periods for the duty to exchange variation and initial margins, may also be extended if the EU confirms that it delays the September 1st, 2016 implementation date. As of yet, there has been no communication as to whether Switzerland is following the European Union and extending the September 1st, 2016 implementation date. However, to the extent that the intent of the Swiss legislator is to follow international standards, it is generally expected that the corresponding Swiss deadlines will be extended as well. Indeed, Art. 131 para. 6 FMIO expressly provides that FINMA may extend the transitional periods to take account of recognized international standards and foreign legal developments. We are waiting for a confirmation from FINMA in this respect. We will keep you informed.

**Please do not hesitate to contact us should you have any questions.**

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