

# Update

## Newsflash October 2017

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### **FinfraG Update VI – FINMA extends the deadline for small non-financial counterparties (NFC-) to fulfill their reporting obligations**

**The purpose of this Newsflash is to inform Swiss market participants that the Swiss Financial Market Supervisory Authority (FINMA) has extended the deadline for small non-financial counterparties (NFC-) to fulfill their reporting obligation under the Swiss Financial Market Infrastructure Act (FMIA) from April 1, 2018 to January 1, 2019.**

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#### **Background**

This Newsflash follows up on Lenz & Staehelin's Newsflash published in April 2017 (FinfraG Update IV) regarding the reporting requirement for derivatives.

Pursuant to Art. 104 FMIA, Swiss market participants have to report to a trade repository authorized or recognized by FINMA the material characteristics of all their derivatives transactions. The reporting obligation is phased in over a period of 6 to 12 months depending on the categorization of the counterparties starting on the date of the first authorization or recognition of a trade repository by FINMA.

On April 3, 2017 FINMA announced the authorization of the first Swiss trade repository (SIX Trade Repository AG) and the recognition of the first foreign trade repository (Regis-TR S.A.) in Switzerland (FINMA Guidance 02/2017).

This authorization/recognition brought into effect the obligation of Swiss market participants

to report their derivatives transactions to a trade repository. In particular, this is the case:

- › From October 1, 2017 if the counterparty which is required to report is a central counterparty (CCP) or a major financial counterparty (FC+);
- › From January 1, 2018 if the counterparty which is required to report is a small financial counterparty (FC-) or a major non-financial counterparty (NFC+);
- › From April 1, 2018 in all other cases, i.e. for small non-financial counterparties (NFC-) not supervised by FINMA in cases of derivatives transactions with foreign counterparties that do not report in accordance with FMIA. However, transactions between two small non-financial counterparties (NFC-) do not have to be reported.

These deadlines are extended by six months in case of derivatives transactions executed through a trading venue or an organised trading facility.

**Extention of the deadlines for small non-financial counterparties (NFC-)**

In order to give small non-financial counterparties (NFC-) sufficient lead-in time for the technical implementation of the reporting obligation, FINMA has decided to extend the deadline to fulfill their reporting obligations in cases of derivatives transactions with foreign counterparties that do not report in accordance with FMIA from April 1, 2018 to January 1, 2019 (FINMA Guidance 05/2017).

This deadline is extended by six months, i.e. as

of July 1, 2019, in case of derivatives transactions executed through a trading venue or an organised trading facility.

The deadlines for central counterparties (CCP), major financial counterparties (FC+), small financial counterparties (FC-) and major non-financial counterparties (NFC+) as outlined above remain unchanged.

**For any further questions regarding this matter please do not hesitate to contact us.**

**Legal Note:** The information contained in this UPDATE Newsflash is of general nature and does not constitute legal advice. In case of particular queries, please contact us for specific advice.

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