

# Update

## Newsflash April 2017

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### **FinfraG Update IV – FINMA authorizes the first Swiss trade repository and recognizes the first foreign trade repository for Switzerland**

**The purpose of this Newsflash is to inform Swiss market participants that FINMA has authorized the first Swiss trade repository (SIX Securities Services) and recognized the first foreign trade repository (REGIS-TR) for Switzerland. The authorization and recognition of the trade repositories trigger the start of the reporting obligation under the Swiss Financial Market Infrastructure Act (FMIA).**

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#### **Background**

This Newsflash follows up on Lenz & Staehelin's Newsflash published in July 2016 regarding the reporting requirement for derivatives transactions.

Pursuant to Art. 104 FMIA, financial and non-financial counterparties as well as central counterparties, but with the exception of transactions between small non-financial counterparties, 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<sup>rd</sup>, 2017, FINMA officially announced the authorization of the first Swiss trade repository (SIX Securities Services) and the recognition of the first foreign trade repository (REGIS-TR) in Switzerland. Lenz & Staehelin

advised REGIS-TR in the process of obtaining recognition from FINMA.

#### **Applicable deadlines for the reporting obligation**

In its communication FINMA announced that open derivatives transactions must be reported from the following dates at the latest:

- › From 1 October 2017 if the counterparty which is required to report is a central counterparty (CCP) or a financial counterparty (FC) which is not small;
- › From 1 January 2018 if the counterparty which is required to report is a small financial counterparty (FC-) or a non-financial counterparty (NFC) which is not small;
- › From 1 April 2018 for all other outstanding derivatives transactions. However, transactions between two small non-financial counterparties (NFC-) do not have to be reported.

Pursuant to Art. 130 para. 2 FMIO, the above reporting obligation deadlines shall be extended by six months for derivatives transactions that are traded via trading venues or via the operator of an organized trading facility.

Lastly, it is noteworthy to mention that, at present, the recognition granted by FINMA to REGIS-TR is restricted to the receipt of reports under Swiss law, i.e. REGIS-TR is not yet

recognized in Switzerland for the purpose of EMIR reportings. Consequently, it is not currently possible for Swiss market participants to make reports about derivatives transactions which are made to REGIS-TR under EMIR and thereby to discharge the Swiss law reporting requirements by substituted compliance.

**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.

# Your contacts

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## **Geneva / Lausanne**

François Rayroux  
francois.rayroux@lenzstaehelin.com  
Tel: +41 58 450 70 00

## **Zurich**

Patrick Hünérwadel  
patrick.hunerwadel@lenzstaehelin.com  
Tel: +41 58 450 80 00

# Our offices

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## **Geneva**

Lenz & Staehelin  
Route de Chêne 30  
CH-1211 Genève 6  
Tel: +41 58 450 70 00  
Fax +41 58 450 70 01

## **Zurich**

Lenz & Staehelin  
Bleicherweg 58  
CH-8027 Zürich  
Tel: +41 58 450 80 00  
Fax +41 58 450 80 01

## **Lausanne**

Lenz & Staehelin  
Avenue du Tribunal-Fédéral 34  
CH-1005 Lausanne  
Tel: +41 58 450 70 00  
Fax +41 58 450 70 01

[www.lenzstaehelin.com](http://www.lenzstaehelin.com)