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**Ordinance  
of the Swiss Financial Market Supervisory Authority  
on Financial Market Infrastructures and Market Conduct  
in Securities and Derivatives Trading  
(FINMA Financial Market Infrastructure Ordinance, FinMIO-  
FINMA)**

of 3 December 2015 (Status as of 26 November 2021)

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*The Swiss Financial Market Supervisory Authority (FINMA),*

based on Article 51 paragraph 2 of the Financial Institutions Act of 15 June 2018<sup>1</sup> (FinIA),

Article 74 paragraph 4 of the Financial Institutions Ordinance of 6 November 2019<sup>2</sup> (FinIO),

Articles 39 paragraph 2, 101 paragraphs 1 and 2, 123 paragraphs 1 and 2 and 135 paragraph 4 of the Financial Market Infrastructure Act of 19 June 2015<sup>3</sup> (FinMIA), and Article 36 paragraph 4 of the Financial Market Infrastructure Ordinance of 25 November 2015<sup>4</sup> (FinMIO),<sup>5</sup>

*hereby decrees:*

**Chapter 1 Record-Keeping and Documenting Requirements**

(Art. 74 para. 4 FinIO; Art. 36 para. 4 FinMIO)<sup>6</sup>

**Art. 1**

<sup>1</sup> Securities firms under FinIA and participants<sup>7</sup> admitted to a trading venue record the orders and transactions which must be recorded under Article 74 FinIO and Article 36 FinMIO in a ledger, regardless of whether or not the securities or derivatives are traded on a trading venue. The ledger may also be divided into journals.<sup>8</sup>

AS 2015 5509

<sup>1</sup> SR 954.1

<sup>2</sup> SR 954.11

<sup>3</sup> SR 958.1

<sup>4</sup> SR 958.11

<sup>5</sup> Amended by Annex No 5 of the FINMA O of 4 Nov. 2020 on Financial Institutions, in force since 1 Jan. 2021 (AS 2020 5327).

<sup>6</sup> Amended by Annex No 5 of the FINMA O of 4 Nov. 2020 on Financial Institutions, in force since 1 Jan. 2021 (AS 2020 5327).

<sup>7</sup> As most *participants* are legal entities, gender-neutral terminology is not used in this text.

<sup>8</sup> Amended by Annex No 5 of the FINMA O of 4 Nov. 2020 on Financial Institutions, in force since 1 Jan. 2021 (AS 2020 5327).

<sup>2</sup> The following shall be recorded in the ledger for all received orders:

- a. the name of the securities and derivatives;
- b. the time the order was received;
- c. the name of the person placing the order;
- d. the name of the transaction and order type;
- e. the volume of the order.

<sup>3</sup> The following shall be recorded in the ledger for completed transactions:

- a. the time of execution;
- b. the volume of the execution;
- c. the attained or allocated price;
- d. the place of execution;
- e. the name of the counterparty;
- f. the value date.

<sup>4</sup> The received orders and completed transactions, regardless of whether they are subject to the reporting duty outlined in Chapter 2, shall be recorded in a standardised format, so that the information can be delivered to FINMA promptly and in its entirety on request.

## Chapter 2 Reporting Duty

(Art. 51 FinIA; Art. 39 FinMIA)<sup>9</sup>

**Art. 2<sup>10</sup>** Transactions to be reported

Securities firms under FinIA and participants admitted to a trading venue must report all transactions under Article 75 FinIA and Article 37 FinMIO to the addressee under Article 5.

**Art. 3** Contents of the report

<sup>1</sup> The report shall contain the following details:

- a.<sup>11</sup> the name of the securities firm subject to the reporting duty in accordance with FinIA or the participant admitted to a trading venue;
- b. the transaction type (buy/sell);
- c. the exact name of the securities or derivatives in question;

<sup>9</sup> Amended by Annex No 5 of the FINMA O of 4 Nov. 2020 on Financial Institutions, in force since 1 Jan. 2021 (AS 2020 5327).

<sup>10</sup> Amended by Annex No 5 of the FINMA O of 4 Nov. 2020 on Financial Institutions, in force since 1 Jan. 2021 (AS 2020 5327).

<sup>11</sup> Amended by Annex No 5 of the FINMA O of 4 Nov. 2020 on Financial Institutions, in force since 1 Jan. 2021 (AS 2020 5327).

- d. the volume of the transaction as follows: nominal amount for bonds, units or contracts for other securities and derivatives;
- e. the price;
- f. the date and time of execution;
- g. the value date;
- h. whether it is a proprietary or client transaction;
- i. the designation of the counterparty as a stock exchange member, other securities firm<sup>12</sup>, customer; in the case of transmissions of orders: designation of the party to which the order was transmitted;
- j. the name of the trading venue where the security or derivative was traded, or the notification that the transaction was made outside a trading venue;
- k. for client transactions: a standardised reference enabling the identification of the beneficial owner of the transaction (Art. 37 para. 1 let. d FinMIO and Art. 31 para. 1 let. d FinIO).

<sup>2</sup> For client transactions, it shall further contain a standardised reference enabling the identification of the beneficial owner of the transaction (Art. 37 para. 1 let. d FinMIO and Art. 75 para. 1 let. d FinIO).<sup>13</sup>

#### **Art. 4** Reporting deadline

Transactions shall be reported within the deadlines outlined in the regulations of the trading venue to which the report is addressed.

#### **Art. 5** Report addressee

<sup>1</sup> Securities transactions must be reported to the trading venue where the securities are admitted for trading.

<sup>2</sup> If a security is admitted for trading at more than one trading venue in Switzerland licensed by FINMA, the reporting parties may choose at which trading venue to fulfil their reporting obligations.

<sup>3</sup> The derivatives transactions under Article 75 paragraph 2 FinIO and Article 37 paragraph 2 FinMIO must be reported to the trading venue where the underlying is admitted for trading. If the derivative has more than one security as underlyings, the report may be made to the trading venue where one of the underlyings is admitted for trading.<sup>14</sup>

<sup>4</sup> Trading venues shall have a dedicated office (reporting office) in their organisation for receiving and processing reports.

<sup>12</sup> Term in accordance with Annex No 5 of the FINMA O of 4 Nov. 2020 on Financial Institutions, in force since 1 Jan. 2021 (AS 2020 5327). This amendment has been made throughout the text.

<sup>13</sup> Inserted by Annex No 5 of the FINMA O of 4 Nov. 2020 on Financial Institutions, in force since 1 Jan. 2021 (AS 2020 5327).

<sup>14</sup> Amended by Annex No 5 of the FINMA O of 4 Nov. 2020 on Financial Institutions, in force since 1 Jan. 2021 (AS 2020 5327).

<sup>5</sup> The reporting office shall issue a set of regulations. It may request adequate compensation for any duties commissioned by FINMA. The rates are submitted to FINMA for approval.

## **Chapter 3 OTC Derivatives Transactions for Clearing**

(Art. 101 FinMIA)

### **Art. 6 Principle**

<sup>1</sup> The derivatives categories to be cleared via a central counterparty are listed in Annex 1.

<sup>2</sup> The decision whether to list derivatives categories in Annex 1 is based on whether:

- a. the contract conditions contain the usual legal documents for the sector with the usual contract specifications listed by counterparties;
- b. the operational processes are subject to automated post-trade processing and there are standardised lifecycle events managed in accordance with a generally agreed schedule;
- c. the margin or financial requirements of the central counterparty are adequately proportionate to the risk being mitigated by the obligatory clearing;
- d. the size and depth of the product's market are stable over the long term;
- e. if a participant in a central counterparty defaults, the market segmentation remains sufficiently high;
- f. the number and value of the previously concluded transactions are sufficiently high;
- g. the information required for the formation of prices is readily available on normal commercial conditions;
- h. there is a heightened systemic risk that counterparties may be unable to meet their payment and delivery obligations to each other if there are strong interdependencies between them.

### **Art. 7 Determination of the OTC derivatives for clearing**

<sup>1</sup> When licensing a Swiss central counterparty or recognising a foreign central counterparty, FINMA determines which of the derivatives cleared by the central counterparty are subject to the clearing obligation. FINMA shall take into consideration the criteria under Article 6 paragraph 2 as well as international standards when determining the clearing obligation.

<sup>2</sup> If the central counterparty clears additional derivatives categories subsequently to obtaining a licence or recognition, it shall inform FINMA thereof.

<sup>3</sup> Upon request it must deliver all information to FINMA necessary to determine the derivatives categories subject to the clearing obligation.

## Chapter 4

### Correspondence and Determination of Deadlines in relation to the Disclosure of Shareholdings and Takeovers

#### Art. 8 Correspondence (Art. 123 para. 1, 139 para. 5 FinMIA)

<sup>1</sup> Notifications and submissions sent by fax or e-mail pertaining to the disclosure of shareholdings and takeovers are admitted in correspondence outside of administrative proceedings and recognised for the purpose of adhering to deadlines.

<sup>2</sup> As a rule, recommendations by the disclosure offices are served upon the parties, applicants and FINMA by fax or e-mail.

<sup>3</sup> The Ordinance of 18 June 2010<sup>15</sup> on Electronic Communication in Administrative Proceedings applies to electronic submissions in administrative proceedings. Submissions to the Takeover Board may also be made by fax.

#### Art. 9 Determination of deadlines (Art. 123 para. 1 FinMIA)

<sup>1</sup> Any deadline calculated by trading days starts on the first trading day following the trigger event.

<sup>2</sup> Any deadline calculated by weeks ends in the last week on the same day as the day on which the trigger event took place. If this day is not a trading day, the deadline is on the next trading day.

<sup>3</sup> Any deadline calculated by months ends in the last month on the same date as the date on which the trigger event took place. In the absence of such date, the deadline ends on the last day of the last month; if the day is not a trading day, the deadline ends on the next trading day.

<sup>4</sup> Trading days are days on which the relevant stock exchange in Switzerland is open for trading in accordance with its trading calendar.

## Chapter 5 Disclosure of Shareholdings

### Section 1 Notification Duty

#### Art. 10 Principles (Art. 120 paras. 1 and 3, 123 para. 1 FinMIA)

<sup>1</sup> The beneficial owners of equity securities under Article 120 paragraph 1 FinMIA are subject to the notification duty. A beneficial owner is the party controlling the voting rights stemming from a shareholding and bearing the associated economic risk.

<sup>15</sup> SR 172.021.2