



**REGIS-TR**

EUROPEAN TRADE REPOSITORY

## **Swiss Financial Market Infrastructure Act**

**Frequently Asked  
Questions – How we can  
help you achieve your  
reporting obligations**

## **IMPORTANT NOTICE TO CUSTOMERS OF REGIS-TR**

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You should seek appropriate professional advice where necessary before taking any action in order to assess your applicable obligations under FinfraG.

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# Swiss Financial Market Infrastructure Act FAQ

## 1. What is the Swiss Financial Market Infrastructure Act (FinfraG)?

The Swiss Financial Market Infrastructure Act (FMIA), also known under the German denomination FinfraG (Finanzmarktinfrastrukturgesetz), came into force on 1 January 2016. It regulates:

1. The organisation and the operation of financial market infrastructures, for example, stock exchanges and central counterparties;
2. The trading of derivatives;
3. The conduct of business rules, for example, insider trading and market manipulations, shareholding disclosures and public takeovers offers

The main rationale behind FinfraG regulation is to increase transparency in the Swiss OTC derivatives market, and to mitigate systemic, counterparty and operational risks. The objective is to align the Swiss regulatory framework with international standards, in particular with the EU regulations (MiFID, MiFIR, EMIR and CSDR) with a view to preserving Switzerland's global competitiveness.

Specifically regarding derivatives trading, FinfraG introduces broad changes to the Swiss derivatives market and aims at increasing transparency, reducing counterparty and operational risk in trading as well as enhancing market integrity and oversight.

### 1. Reporting to a trade repository:

Reporting of derivative trades to a Trade Repository authorised or recognised by the Swiss Financial Market Supervisory Authority, FINMA.

### 2. Clearing through a central counterparty:

OTC derivative trades between large counterparties must be cleared through a central counterparty.

### 3. Trading through a stock exchange or a trading system:

Derivative contracts must be traded through a stock exchange or other trading system.

### 4. Risk mitigation:

OTC derivative contracts not cleared through a central counterparty will be subject to the following obligations:

- Exchange of transaction confirmations between counterparties;
- Portfolio reconciliation;
- Dispute resolution procedures;
- Portfolio compression;
- Daily valuation; and
- Margin requirements and exchange of initial margin

The focus of this FAQ document is to outline the trade reporting requirements introduced by FinfraG.

## **2. How can REGIS-TR help to meet the FinfraG reporting requirements?**

REGIS-TR provides its customers with a one-stop shop for all European regulatory reporting, including transaction, position and valuation reporting for FinfraG. By using REGIS-TR for reporting, under the European Market Infrastructure Regulation (EMIR) and FinfraG, customers will benefit from operational efficiencies including:

- Very similar message formats used for EMIR and FinfraG reporting;
- A streamlined onboarding process for existing REGIS-TR customers;
- Synergies from using a one-stop regulatory reporting solution provider;
- Access to expert staff and detailed supporting documentation provided by an experienced Trade Repository; and
- A transparent and easily understandable fee schedule.

Together these operational efficiencies mean that customers, who already use REGIS-TR for EMIR reporting today, will benefit from an easier process to implement FinfraG reporting. If you are not already an existing REGIS-TR customer today, we also have all of the necessary expertise and support to help you efficiently and smoothly implement your FinfraG reporting requirements in a very short timescale.

REGIS-TR's vision is to provide its customers with a one-stop shop for all their European regulatory reporting requirements. Our customers benefit from centralised services that cover an increasing range of reporting needs: in addition to our upcoming FinfraG service and our existing EMIR reporting service, our customers will also benefit from new reporting services for EU regulations such as SFTR, which Regis-TR is planning to launch as from the reporting start date in 2018.

### 3. FinfraG reporting parameters

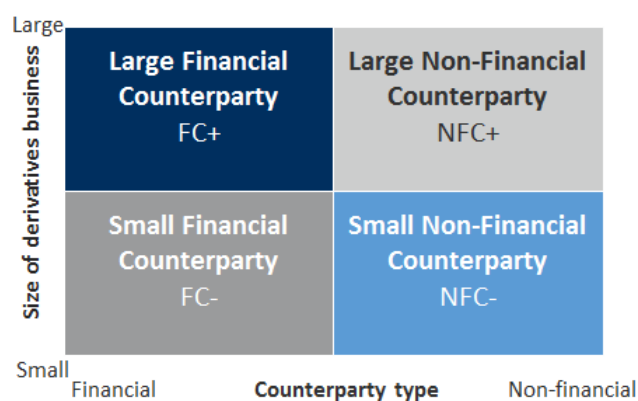
FinfraG draws on EMIR with regard to its reporting requirements, and the data that needs to be reported shares a high degree of similarity. This will allow customers to leverage the majority of EMIR data stored for FinfraG reporting purposes. While there is a great deal of common ground between the two regulations, there are some key differences of approach that are explained below.

#### 3.1 Who will be required to report?

FinfraG affects all entities, which have their registered office in Switzerland and enter into derivative trading ("Swiss counterparties"). Both financial counterparties (e.g. banks, brokers, insurance companies, asset managers etc.) and non-financial counterparties (e.g. trading companies, corporation etc.) fall under the scope of this reporting obligation. As the reporting under FinfraG is single sided, only one counterparty has to report.

Specific reporting obligations need to be considered under FinfraG regulation:

- In the case of transactions between a financial and a non-financial counterparty: the financial counterparty has the reporting obligation
- In the case of transactions between two financial counterparties: i) the financial counterparty which is not small in accordance with Article 99 has the reporting obligation, ii) the selling counterparty has the reporting obligation in the case of a transaction between two financial counterparties or between two small financial counterparties
- The counterparty which has its registered office in Switzerland if the foreign counterparty does not report:
  - In the event of a transaction between non-financial counterparties, the above first two bullet points apply by analogy. A transaction between small non-financial counterparties does not have to be reported
  - If the transaction is cleared centrally, the report is submitted by the central counterparty. If a recognised foreign central counterparty does not submit reports, the reporting duty shall remain with the counterparties
  - Third parties may be involved in reporting
  - If there is no trade repository, the Federal Council shall indicate the entity to which the report is to be submitted



**Figure 1. Counterparty classifications**

## 3.2 What transactions need to be reported?

The following transactions need to be reported under FinfraG regulation:

- All the financial transactions belonging to the following asset classes categories: Commodities (CO), Credits (CR), Currencies (CU), Equity securities (EQ), Interest rates (IR) and other derivatives (OT).
- Every event of the transaction lifecycle: origination, modification, valuation and termination
- Reporting of transactions, positions and valuations

For each reported transaction, the following information should be included:

- Transaction identification: such as UTI
- Counterparty identification: such as ID (e.g. LEI, BIC), name and seat
- Product identification: such as asset class (CO, CR, CU, EQ, IR or OT), product type (e.g. option, swap and forward), notional, price, maturity date, settlement date and currency
- Transaction information: such as time of the transaction

Certain transactions are not considered as derivatives under FinfraG, and are therefore out of scope.

These include:

- structured products such as capital-protected products, capped return products and certificates;
- securities lending and borrowing; and
- transactions relating to commodities that:
  - must be physically settled;
  - cannot be cash-settled at a party's discretion;
  - are not traded on a trading venue or an organised trading facility



### 3.3 How will the reporting work in practice?

Transactions have to be reported to the Swiss regulator, FINMA, via a FINMA authorised Trade Repository.

Unlike EMIR, the reporting under FinfraG is single sided. This means that only one counterparty has to report a transaction. The reporting counterparty is defined according to a cascade principle - in other words:

- All transactions cleared through a central counterparty (CCP) need to be reported by the CCP. However, if the recognised foreign CCP does not submit reports, the reporting duty remains with the counterparty closest to the CCP <sup>1</sup>
- For uncleared transactions:
  - Financial Counterparties (FCs) will always report when trading with a Non-Financial Counterparty (NFCs)
  - Large counterparties will always report when trading with small ones. Transactions between small non-financial counterparties (NFC-) are exempted from reporting obligations

Counterparties will have the possibility to either report directly or to delegate the reporting

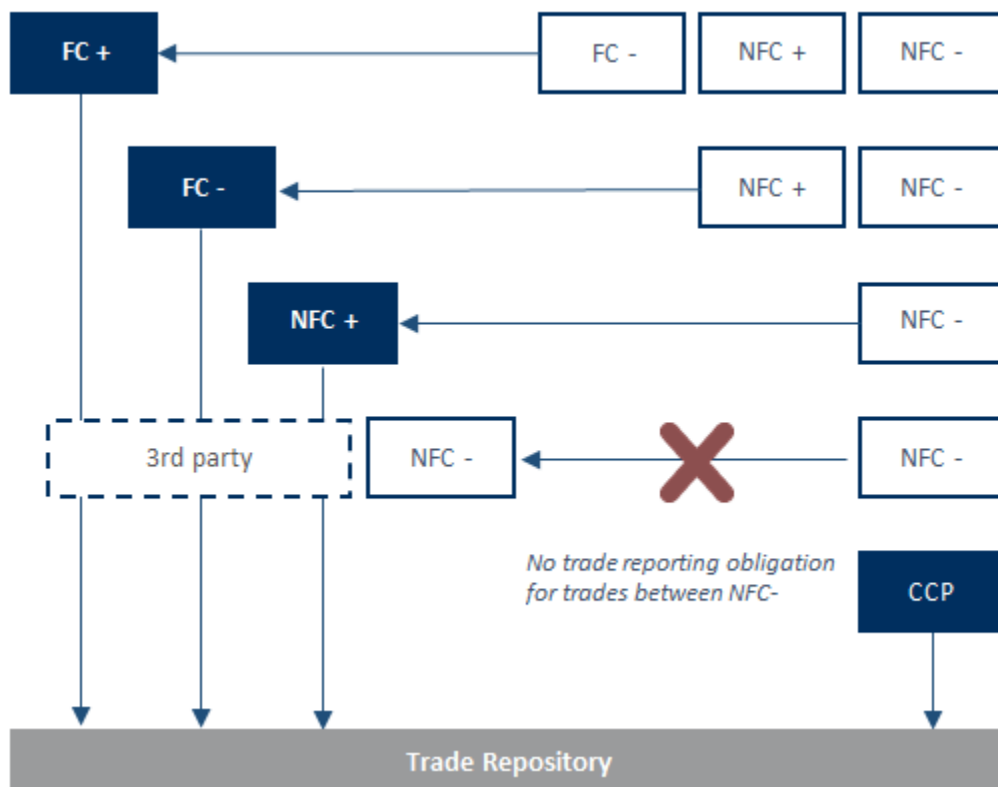
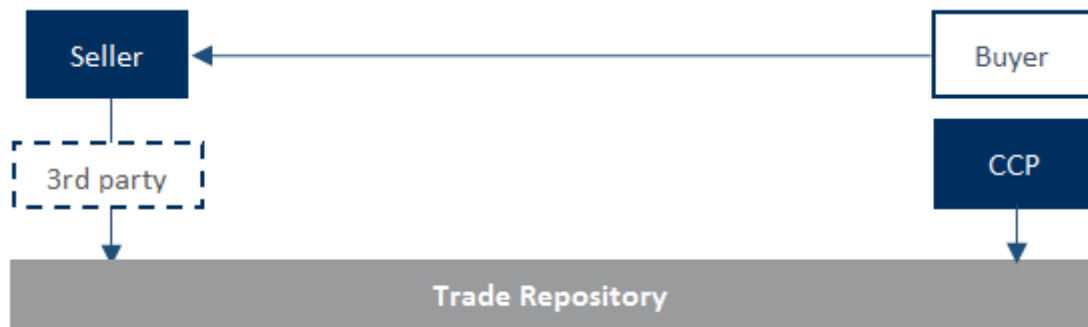


Figure 2. Cascade principle reporting

<sup>1</sup> In accordance with Article 104 (4) of the FMIA and Article 92 (2) of the FMIO. May 2017

For uncleared trades between counterparties of the same category, the selling entity will report.



**Figure 3. Buyer/Seller rule**

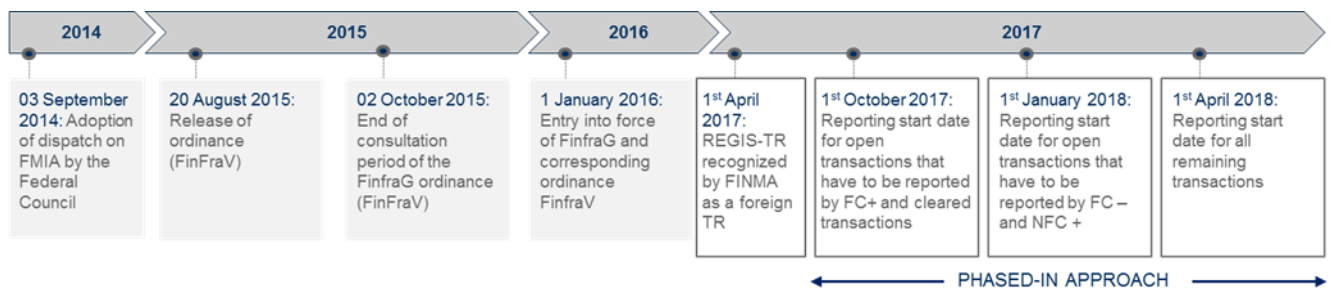
The information that needs to be reported is broadly comparable to EMIR reporting requirements, including details such as:

- The contracting parties;
- The contract type;
- The transaction; and
- Modifications to transactions.

Each event has to be reported the following working day (T+1) at the latest.

### 3.4 When will the reporting obligation start?

The reporting obligation starts on 1<sup>st</sup> October through a phased-in approach. In anticipation, Regis-TR has been working since the last 12 months to develop its IT reporting platform. In addition, REGIS-TR has been recognized on 1<sup>st</sup> April as the first foreign trade repository for Switzerland by the Swiss Financial Market Supervisory Authority (FINMA).



**Figure 4. Implementation timeline**

Depending on the counterparties' typology, the reporting obligation for FinfraG will start 6 to 12 months after the date of the first authorization or recognition of a trade repository by FINMA.

- Reporting date for open derivatives transactions:
  - Central counterparty (CCP) or a financial counterparty (FC) which is not small is subject to the reporting obligation as of 1 October 2017
  - Small financial counterparty (FC-) or a non-financial counterparty (NFC) which is not small is subject to the reporting obligation as of 1 January 2018
  - Transactions between two small non-financial counterparties (NFC-) do not have to be reported

- Reporting date for all other outstanding derivatives transactions:
  - All transactions should be reported as of 1 April 2018, except for transactions between two small non-financial counterparties (NFC-)
  - For derivatives transactions that are traded via trading venues or via the operator of an organized trading facility, all the reporting obligation deadlines mentioned above shall be extended by six months according to Art. 130 para. 2 FMIO

## **4. Data protection and publication**

### **4.1 Data protection**

REGIS-TR is subject to the data protection laws and regulations of the EU and Luxembourg. These laws and regulations are deemed equivalent by the Swiss Confederation and are guarantying sufficient level of data protection according to Swiss law. Data will be stored in a secure data centre located within the EU and strictly controlled IT. Data will be isolated from the other services offered by REGIS-TR.

In terms of data collection, REGIS-TR applies Art. 104 and 105 FMIA/FINFRAG while carrying out its mandate of reporting pursuant to FMIA/FINFRAG. Indeed, the data collected from a Swiss Member is limited to the data listed in the Annex 2 of the Financial Market Infrastructure Ordinance, (the "Registered Data"). In addition, REGIS-TR collects pursuant to Paragraph 11.2 of the General Terms and Conditions certain personal data while opening and managing the Member accounts. REGIS-TR undertakes to inform the Swiss Member if additional personal data is collected.

Concerning the data usage and transfer, REGIS-TR undertakes not to transfer Registered Data to any third party, except if required by law or authorised by the Member or with its Affiliates according to the paragraph 11.5 of the General Terms and Conditions. In this respect, the Member expressly authorises REGIS-TR to transfer the Personal Data and the Registered Data within the group of companies to which REGIS-TR belongs and the Affiliates that may offer any adequate level of protection, for the purpose of the provision of the services. For avoidance of doubt, no information on the beneficial owner will be collected and/or transmitted to any third party, except if required by Swiss law, or by any court order.

### **4.2 Data publication**

REGIS-TR undertakes to publish, at least on a weekly basis (according to the article 61 FMIO), the open positions, the transaction volumes and the values according to the classes of derivatives in aggregated and anonymous form as required by Swiss law.

Concerning the data retention, REGIS-TR will keep any record relating to all the Personal and Registered Data for a period of 10 years from the termination, cancellation or expiry of the relevant Derivative Contracts according to Article 75 FMIA/FINFRAG.

### **5. What are the next steps to prepare for FinfraG reporting obligations?**

There are broad similarities between FinfraG reporting obligations and the EMIR reporting framework.

REGIS-TR clients can leverage on REGIS-TR's existing infrastructure (including connectivity and message formats) to fulfil both EMIR and FinfraG reporting obligations, thereby building synergies in their reporting requirements.

Market Participants might also start to identify transactions and transaction information need of reporting under FinfraG and compare this with their current EMIR obligations. Now is also the time for market participants to consider which elements of their business constitute in-scope entities, and what size and type of institution they would be categorised as under FinfraG. Our dedicated REGIS-TR Relationship Manager's can help you with further details in this respect.

For further information, please contact your Relationship Manager or send an email to [finfrag-onboarding@regis-tr.com](mailto:finfrag-onboarding@regis-tr.com).

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