



A practical approach to the Financial Markets Infrastructure Act (FMIA/FinfraG) for trading companies

**The new regulatory framework for financial and commodity derivatives entered into force on 1<sup>st</sup> January 2016. With the gradual phase-in of obligations for market participants, it is essential that commodity trading firms actively prepare for full implementation.**

**What will FinfraG impact?**

- Your processes (definition of processes, procedures)
- Your organization (workload, roles & responsibilities)
- Your training requirements (regulations, new processes)
- Your IT (reporting process)
- Your partners management (ISDA with brokers, confirmation process)

**Reporting obligations for derivatives**

Reporting duties will start applying to all open derivatives positions after the first trade repository will have been authorised or recognised. This is expected to take place at the end of December 2016.

- After 6 months: trades by large financial counterparties (FC+) and CCPs;
- 9 months for trades by small financial counterparties (FC-) and large non-financial counterparties (NFC+), of which many large trading firms;
- 12 months for all other cases.

Trades carried out through a trading venue or an organized trading system have an extra 6 months to comply.

**Clearing requirements**

Staggered introduction of clearing will be required for new transactions once FINMA publishes its decision to subject a given class of derivatives to the clearing requirement.

The current products impacted are IRS and CDS but the timeline is not yet clear.

**Risk mitigation**

The requirements regarding a timely confirmation, portfolio reconciliation, dispute resolution and portfolio compression will apply within 12 months of entry into force of the FMIO for trades between large counterparties and trades between large counterparties and FC-. For all other trades the delay is 18 months.

Due to EU delays, the deadline for exchange of collateral has been pushed back. However, the valuation requirements will apply from 12 months after the entry into force of the FMIO.

**Platform trading obligation and position limits**

Certain designated derivatives will have to be traded on a stock exchange or a trading platform.

The requirements on position limits will be based on those developed under MiFID II at EU level. As a result, the platform trading requirement and the position limits rules will not enter into force before 2018 at the earliest.

**Different obligations according to firm classification**

	FC	FC-	NFC+	NFC-
<b>Clearing</b>	Yes	No	Yes	No
<b>Reporting</b>	Yes	Yes	Yes	Yes
<b>Risk Mitigation – operational risk</b>	Yes	Yes	Yes	Yes
<b>Risk mitigation – valuation open contracts</b>	Yes	No	Yes	No
<b>Risk Mitigation – exchange of collateral</b>	Yes	Yes	Yes	No
<b>Mandatory platform trading</b>	Yes	No	Yes	No

**A challenge for commodity trading companies**

Companies have little time to update the way they handle derivatives. Both physical and derivatives trade data will need to be captured in order to meet the various reporting, reconciliation, confirmation and margin management obligations. This process will require rethinking the hedging process internally and the different platforms in use for front office tasks, data capture or clearing brokerage systems, most of which are manual and error-prone.

Compliance will be costly. The silver lining is that concrete solutions suited to trading firms are under development and that with greater systems automation firms can expect to reduce costs and better manage their risk.

**Determining in which category you fall**

Trading firms must determine in which category they belong. Nearly all commodity trading firms will qualify as non-financial counterparties. It is then necessary to determine whether their group-wide activities (including outside of Switzerland) take them above any one of the thresholds (equity, FX, commodities...) set in Art 88(1) FMIO. The specific threshold for OTC commodity derivatives is CHF 3.3 billion (gross outstanding notional) and excludes hedging transactions.

**Basic implementation roll-out timeline**

