



Financial Market Infrastructure Act FMIA

Financial Management

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Financial Market Infrastructure Act - FMIA

In the wake of the global financial crisis, the G20 states agreed to subject the financial markets to extensive regulation serving stabilization and transparency. Besides it was intended to ensure supervision of over-the-counter trading of derivatives ("OTC derivatives") which were considered to have played a central role in causing the financial crisis. In order to achieve these objectives, the legislators in the US, EU and other economic areas issued various regulations, which complement and partially overlap each other.

Derivative regulation in the global context

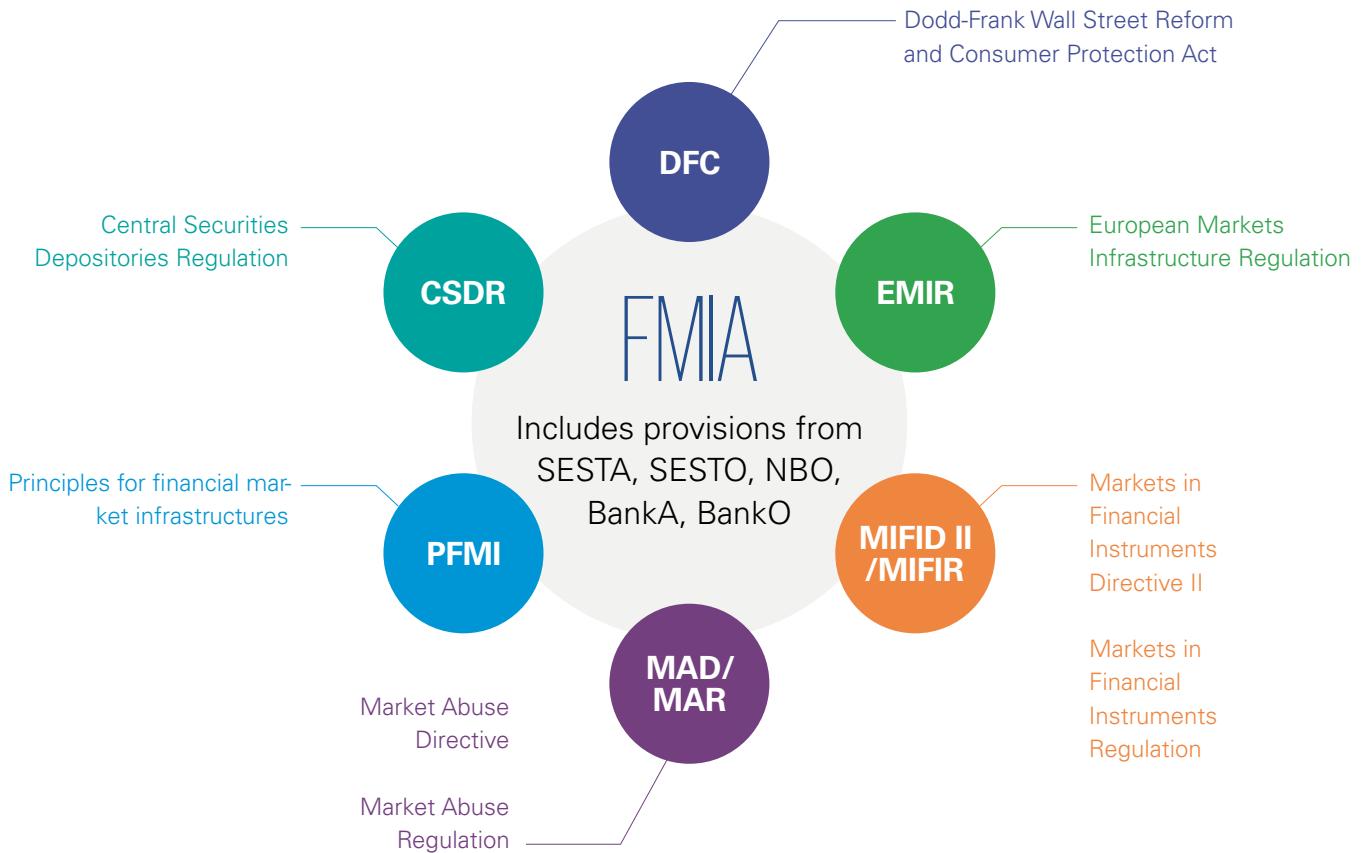
While the US adopted the Dodd-Frank Wall Street Reform and Consumer Protection Act (DFA), the EU introduced the European Markets Infrastructure Regulation (EMIR). EMIR came into force on 16 August 2012 and introduced requirements aimed at improving the transparency of OTC derivatives markets and to reduce the risks associated with those markets. In order to achieve this, EMIR requires that OTC derivatives meeting certain requirements are subject to the clearing obligation and for all OTC derivatives that are not centrally cleared that risk mitigation techniques apply. In addition, all derivatives transactions need to be reported to trade repositories.

Derivative regulation in Switzerland

Following the international movement towards a stricter regulation of the financial markets, Switzerland decided to implement the Financial Market Infrastructure Act (FMIA; FinfraG – Finanzmarktinfrastrukturgesetz). The act as well as the Ordinance of the Federal Council (FMIO) and the Ordinance of the Swiss Financial Market Supervisory Authority (FMIO-FINMA) have already been published. The public consultation of the legislative texts will be closed in October 2015. After that, it is planned that the act and the ordinances will enter into force by 1 January 2016.

FMIA governs the organization and operation of financial market infrastructures and the conduct of financial market participants in securities and derivatives trading. It aims to ensure the proper functioning and transparency of securities and derivatives markets, the stability of the financial system, the protection of financial market participants and equal treatment of investors.

FMIA incorporates standards found in the DFA, EMIR, as well as other regulations and adds a Swiss finish



Obligations under FMIA

The new regulation of FMIA, FMIO and FMIA-FINMA imposes obligations on all legal entities registered in Switzerland that enter into derivative contracts (with only a few exceptions, e.g. SNB). This means that any corporation using even one derivative is in scope of FMIA and has to comply with the regulations. Depending on the classification of the company and the derivative product classifications according to FMIA, the following obligations might apply to your company after FMIA has entered into force:

- Central clearing over a central counterparty
- Trade reporting
- Risk mitigation – operational risk
- Risk mitigation – valuation of trades
- Risk mitigation – exchange of collateral
- Mandatory platform trading
- Position limits for commodity derivatives
- Documentation and effective procedures to fulfill all obligations

Companies should consider the following questions immediately:

- EMIR is already affecting me. Which additional changes will FMIA now bring with it?
- What is the company's counterparty classification?
- Which obligations do apply to your counterparty classification?
- Which documentation and procedures need to be set up?
- Which derivatives are subject to FMIA?
- What is the size of your global derivatives portfolio?
- What is the size of your hedge positions, what is the size of your speculative positions?
- Do I have to apply for a securities dealer license?
- What additional obligations do I have as a securities dealer under FINMA regulation?
- Which methodology do you use to show the hedge relationship for hedge derivative positions?
- How to calculate the thresholds?
- Which counterparty is responsible for the reporting obligation?



KPMG will gladly support you when you introduce FMIA and other similar regulations in projects such as:

- Assessing whether and how you will be affected by the regulation
- Providing readiness assessments / gap analyses in view of implementing the regulation in your company
- Supporting the implementation process of the FMIA obligations
- Supporting the calculation of the thresholds
- Advise on the application for a securities dealer license

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