

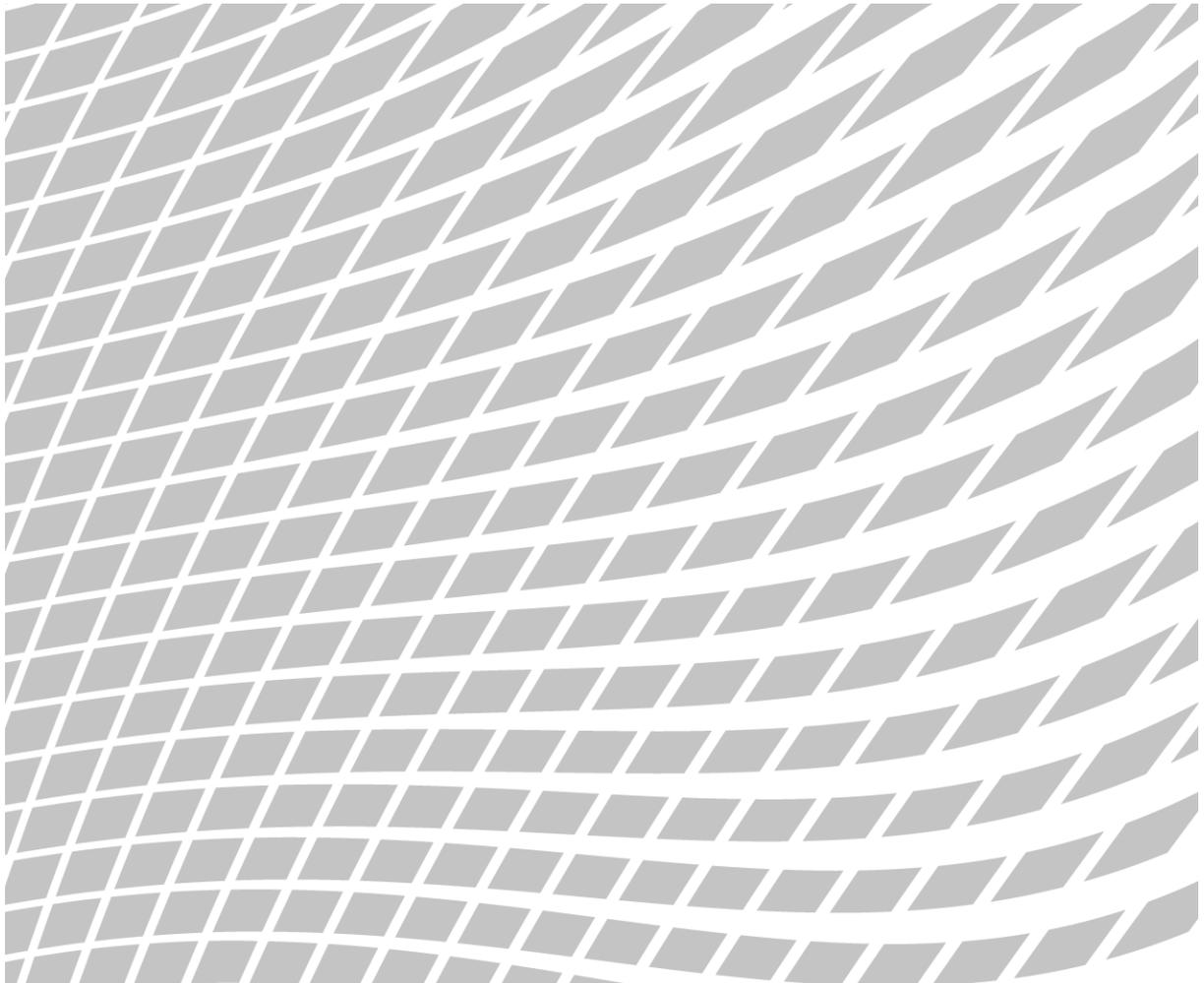
28 September 2016

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## **Circular 2018/xx “Organised trading facilities”**

### Key points

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The circular defines the concept of organised trading facilities based on requirements which stem from the terms “organised” and “trading facility”. For a trading facility to qualify as an organised trading facility (OHS, German acronym for Swiss OTF), i) it must have standardised, binding rules, ii) the contract must be concluded within those rules and iii) the participants must take or be able to take the initiative to carry out the trade.

Purely internal transactions within a financial group subject to consolidated supervision do not fall within the scope of OHS regulation.

Leeway for operators of a discretionary OHS is confined to decisions about whether to place a client order on the trading facility or withdraw it, and whether at any point in time not to match a client order with orders which are placed through the facility.

In a bilateral OHS-based trade, the operator of the OHS is always a contractual party and is exposed to a market risk when executing transactions.

The circular states that primary market transactions and the sale of financial instruments designed specifically for a client do not fall within the scope of OHS regulation.

The organisational requirements for an OHS provided for by the legislature, which aim to prevent conflicts of interest, are detailed in the circular. In particular, an operator running more than one OHS must take effective and appropriate measures to segregate the facilities.

OHS operators must establish an efficient control function independent of their trading business to ensure that trading complies with the rules.

The obligation to ensure pre-trade transparency is linked to the concept of a liquid market, the definition of which refers to the number of transactions within a trading year.

The Financial Market Infrastructure Act (FMIA) and the Financial Market Infrastructure Ordinance (FMIO) do not apply quantitative thresholds when defining a bilateral organised trading facility, and in this they differ from the MiFID definition of a systematic internaliser. As there are no quantitative thresholds, the circular bases the distinction on the definition of an organised trading facility.