

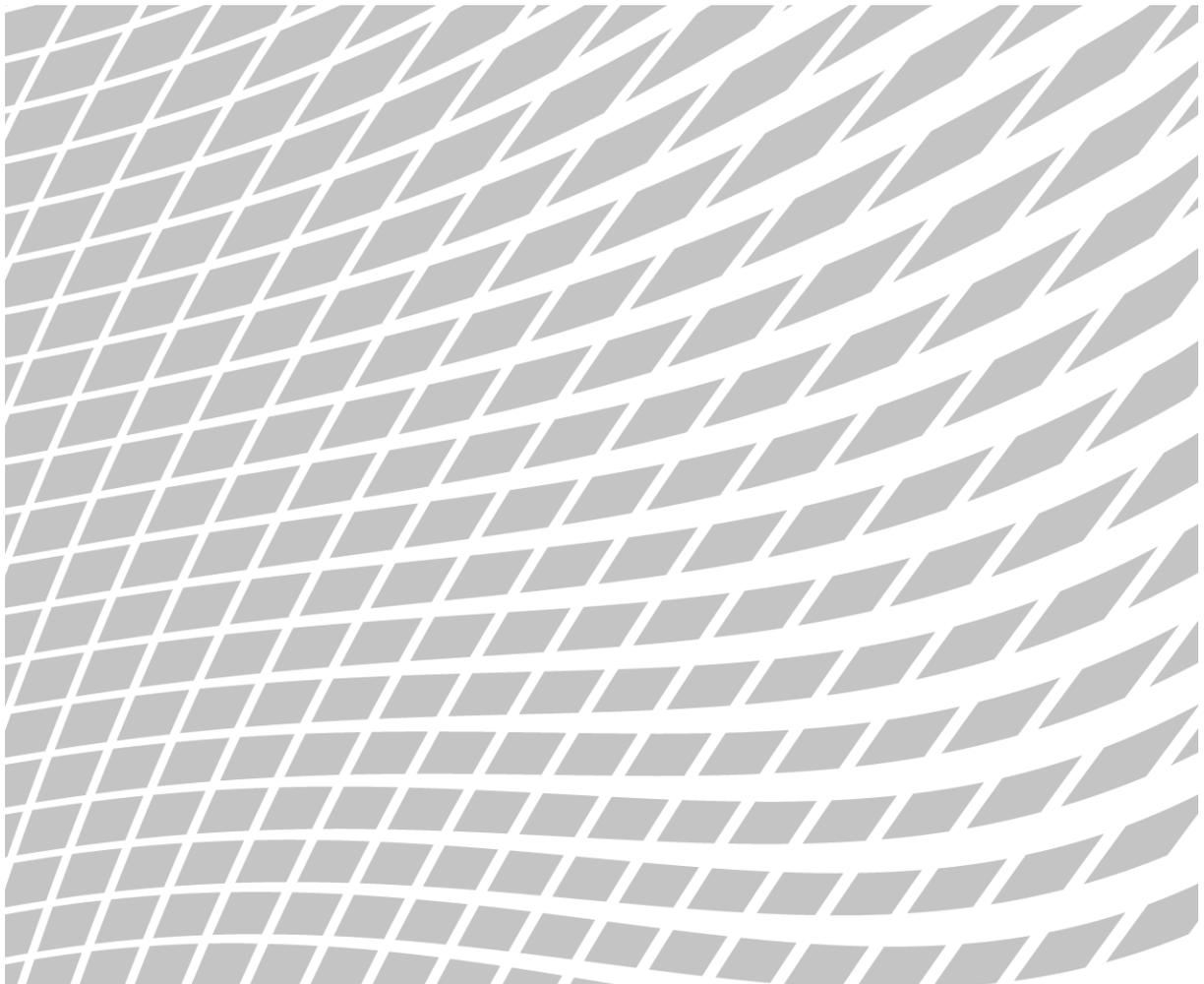
28 September 2016

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# **Full revision of FINMA Circular 08/11 “Disclosure requirements for securities transactions” and partial revision of FINMA Circular 08/4 “Securities journals”**

## Key points

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**Fully revised FINMA Circular 2008/11 on “Disclosure requirements for securities transactions”**

The material scope of the disclosure requirements for securities transactions has been extended under new legislation and now includes derivatives for which the underlying securities are admitted to trading at a venue in Switzerland (Art. 37 para. 2 FMIA and Art. 31 para. 2 SESTO). The concept has been defined more precisely and limited insofar as derivatives derived from a combination of securities only trigger a disclosure requirement if the proportion of those securities admitted to trading at a Swiss trading venue is at least 25%.

The law also broadens the content of disclosure to include the beneficial owner behind a business transaction (Art. 37 para. 1 let. d FMIO and Art. 31 para. 1 let. d SESTO in conjunction with Art. 3 let. k FMIO-FINMA). The circular defines the beneficial owner in the meaning of Article 37 para. 1 let. d FMIO and Article 31 para. 1 let. d SESTO as the person who bears the economic risk arising from the business transaction. A beneficial owner is essentially to be identified as a natural person. An operational non-financial legal entity can also be recognised as the beneficial owner.

As a standardised reference for identifying the beneficial owner (see Art. 3 let. k FMIO-FINMA), the circular sets out a procedure for natural persons based on nationality, date of birth and an internal bank code. For legal entities, the standardised reference described in the circular is the Legal Entity Identifier (LEI).

Since disclosure requirements have been extended to include the beneficial owner (see Art. 37 para. 1 let. d FMIO and Art. 31 para. 1 let. d SESTO), aggregated orders must now be reported both when they are executed on the stock exchange and upon definitive allocation to clients.

**Partially revised FINMA Circular 2008/4 on “Securities journals”**

Following an amendment to the law, the obligation to maintain a securities journal has been extended to orders and transactions involving derivatives which do not qualify as securities (Art. 36 para. 2 FMIA and Art. 30 para. 2 SESTO). For derivatives with more than one underlying security, the obligation to maintain a journal uses the threshold value and the calculation of that value set out in FINMA Circular 18/xx “Disclosure requirements for securities dealers”.