



Monthly
Newsletter
January
2026

Banking and
Finance

Schellenberg
Wittmer



New Swiss Regulation of Stablecoins and Crypto Asset Service Providers

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Key Take-aways

1.

New Swiss legislation has been proposed for stable coins referencing a fiat currency. Such stablecoins must be issued by Swiss issuers licensed by FINMA as payment instrument institutions (a new type of license).

2.

For other stable coins and for cryptocurrencies, the proposed new legislation specifies, in line with international developments, new licensing requirements for custody, brokerage and market-making activities.

3.

The proposal also includes point of sale, organizational and documentation obligations for cryptocurrencies and certain stable coins that are aligned with the relevant obligations applicable to financial instruments.

1 Introduction

While Switzerland was among the first movers as regards the **classification of tokens** into the categories of **payment tokens**, **utility tokens** and **asset tokens** when FINMA published its [ICO guidelines in 2018](#) and when it adopted the new legislation governing **DLT securities** as new types of securities in 2021, there were some gaps that became apparent in the recent past. The most critical point is the uncertainty regarding how to issue **stable coins** given the [AML requirements](#) applicable to such digital assets. Also, the implementation of Regulation (EU) 2023/114 on markets in crypto-assets (**MiCAR**) in the EU brought to light some gaps in the Swiss regulatory framework.

Against this background, the Swiss Federal Council launched a consultation for a [FinTech Regulation Reform Bill \(the Bill\)](#) on 22 October 2025, which includes, in a nutshell, (1) a proposal for a **Payment Instrument Institutions license** as a new license category replacing the current FinTech company license pursuant to article 1b of the Swiss Banking Act, allowing, *inter alia*, the issuance of Swiss stablecoins, (2) the introduction of a new **license category of crypto asset service providers** similar to a CASP under MiCAR and (3) new investor protection rules for **investments in digital assets** that are modelled on the rules applicable to financial instruments. The **consultation period** for the Bill runs until **6 February 2026**.

Independently from the Bill and in the sense of an interpretation of the laws and regulation that are currently in force, FINMA published its **FINMA Guidance 01/2026** on 12 January 2026 on the custody of cryptobased assets. Therein, FINMA clarifies in particular that Swiss banks are not required to hold own funds for crypto assets held for clients on custody with a third party custodian outside Switzerland, provided that such a custodian is also subject to prudential supervision and the crypto assets can be segregated in the event of its bankruptcy. In addition, FINMA clarifies the conditions applying to Swiss asset managers when providing asset management services in relation to crypto assets held with a foreign third-party custodian.

2 New categorization for crypto assets

The Bill introduces the following **new token categorization** that is decisive for determining the scope of the new license requirements as well as the new regulatory obligations:

- **Swiss Stablecoins** (*wertstabile kryptobasierte Zahlungsmittel*) are a new type of digital assets in the sense of a **sub-category of asset tokens**. They must (1) be **issued in Switzerland by a Payment Instrument Institution** (see section 3 below), (2) be linked to the **value of a state-issued fiat currency**, (3) have a value to be kept stable by safe-keeping the relevant assets backing the tokens as **deposits with a Swiss bank** or as **high-quality liquid assets (HQLA)** with **short term maturity**, and (4) have an

issuer with an obligation to **repay the holder the specified face value**.

The category of Swiss Stablecoins bears similarities with **electronic money (or e-money) tokens** within the meaning of MiCAR.

- **Trading Crypto Assets** (*kryptobasierte Vermögenswerte mit Handelscharakter*) are digital assets that (1) are **neither issued by a central bank nor the sovereign**, (2) are not **utility tokens** granting their holders an exclusive right to access or use a service, (3) are **neither financial instruments nor Swiss Stablecoins**, and (4) **do not constitute deposits** under the Swiss Banking Act.

In other words, Trading Crypto Assets serve as a fallback category and encompass in particular (1) **cryptocurrencies/payment tokens** (e.g. Bitcoins and Ether), (2) **foreign stablecoins** and (3) stablecoins of Swiss issuers that **do not qualify as financial instruments or Swiss Stablecoins**, e.g. **due to referencing a basket of fiat currencies or other assets or due to referencing a cryptocurrency**.

The following types of tokens will fall entirely outside of these new categories for Swiss Stablecoins and Trading Crypto Assets:

- **Asset tokens that qualify as financial instruments** (e.g., securities, derivatives and collective investment schemes) and to which the regulatory requirements applicable to financial instruments are relevant; and
- **Utility tokens** (i.e., tokens that only grant access to services).

Swiss Stablecoins must be issued in Switzerland by a Payment Instrument Institution.

3 Payment Instrument Institutions

The Bill introduces a new license category of **Payment Instrument Institutions** which shall be subject to the **Swiss Financial Institutions Act (FinIA)**.

Similar to holders of the current FinTech license pursuant to article 1b of the Banking Act, which will be repealed, Payment Instrument Institutions are allowed to accept from clients **non-interest bearing funds**, e.g. in connection with the issuance of Swiss Stablecoins, which will be newly labelled as **“client money”**. However, they must not accept interest-bearing **“client deposits”**, as this would trigger a bank license requirement. Payment Instrument Institutions shall **not be subject to a cap of CHF 100 million “client money”** as it is currently the case for FinTech license holders. Moreover, a Payment Instrument Institution will be permitted to hold Swiss Stablecoins in

custody and to provide payment services. Therefore, this new license category may be used for the issuance of Swiss Stablecoins as well as for other payment services or other FinTech business models involving the acceptance of non-interest bearing “client money”.

Any accepted “client money” must be held on a **bankruptcy-remote** and **segregated basis**, i.e. separate from the Payment Instrument Institution’s own assets. In addition, “client money” must be held either in the form of (i) **deposits with a Swiss bank or another Payment Instrument Institution**, or (ii) as **HQLA with short term maturity**. As regards the safe-keeping of “client money” in the form of HQLA, the legislator proposes a broad definition of HQLA covering (i) category 1 instruments as defined in the Liquidity Ordinance for Banks (including funds held with the SNB and sovereign debt instruments) as well as (ii) **repos, reverse-repos** and **money market funds**, provided – in case of (i) and (ii) – that they have a short term maturity. The relevant maximum maturities will be defined by the Swiss Federal Council in an ordinance.

Any “client money” of Swiss Payment Instrument Institutions will **not be part of the Swiss deposit protection scheme**, but constitute special funds that have to be segregated for the benefit of clients or holders of Swiss Stablecoins.

As regards Payment Instrument Institutions issuing Swiss Stablecoins, the Bill specifies that the Swiss anti-money laundering requirements will apply in full for the process of **issuance in the primary market** and for the process of **redeeming Swiss Stablecoins**. On the other hand, the current know-your-customer requirements for all stablecoins transactions on **secondary market** (so-called **whitelisting requirement**) is **dropped**. Going forward, the anti-money laundering requirements for issuers of Swiss Stablecoins in respect of secondary market transactions may also be met by monitoring transactions and **blacklisting wallet addresses** and being able to **block, freeze or withdraw stablecoins** for the purpose of complying with anti-money laundering requirements. Furthermore, the Bill clarifies that only Payment Instrument Institutions may issue Swiss Stablecoins; i.e. banks and securities firms or other financial institutions within the meaning of the FinIA will need to set-up a **separate group company with a license as Payment Instrument Institution for issuing Swiss Stablecoins**.

In conclusion, the abolition of the maximum amount of “client money” that currently applies to FinTech licensees, is welcomed, and Swiss bank groups may benefit from the new rules for the issuance of domestic Swiss Stablecoins. To further promote the issuance of Swiss Stablecoins, it would be worth exploring if also licensed Swiss Banks should be permitted to issue Swiss Stablecoins. Moreover, it remains to be seen whether the new license category is sufficiently attractive for foreign groups to set-up an issuer of a Swiss Stablecoin. This will in our view depend on the regulatory conditions applying to Swiss Stablecoins in **cross-border transactions**. In addition, issuers of Swiss Stablecoins will face competition from foreign stablecoin issuers which may issue stablecoins in Switzerland in the form of Trading Crypto Assets without a license requirement in Switzerland.

4 Crypto Institutions

The Bill also introduces a new license category for Crypto Institutions. A **Crypto Institution** license is required for the following activities:

- **Custodial wallet activities for Swiss Stablecoins and Trading Crypto Assets;**
- **Brokerage activities for Trading Crypto Assets** (but not in respect of Swiss Stablecoins);
- **Market-making activities for own account** in respect of **Trading Crypto Assets;** and
- Operating an **organized trading facility for Trading Crypto Assets.**

Crypto Institutions will be supervised by FINMA and the license cascade indicates that **banks and securities firms may act as Crypto Institutions**. However, portfolio managers and trustees and managers of collective assets may not operate as Crypto Institutions.

Today, service providers of custodial wallet solutions with **segregated public addresses** for each client and brokerage services for crypto assets typically qualify as **financial intermediaries pursuant to the Swiss Anti-Money Laundering Act (AMLA)** and only require an affiliation with a self-regulatory organization. Therefore, the Bill will introduce **a new licensing regime** for most custodial wallets providers and brokers of crypto assets. Conversely, the offering of **non-custodial wallets remains an unregulated activity** provided that it does not amount to an activity of providing assistance in the transfer of crypto currencies within the meaning of the Swiss Anti-Money Laundering Ordinance.

Crypto Institutions will be supervised by FINMA.

A proprietary trading activity in Trading Crypto Assets will not trigger a Crypto Institution licensing requirement. The same will apply to brokerage services for Swiss Stablecoins and asset management activities regarding Swiss Stablecoins and Trading Crypto Assets, but such activities will remain a financial intermediation activity pursuant to the AMLA.

In respect of brokerage activities for Trading Crypto Assets and Swiss Stablecoins, the Bill remains silent as to when such services may qualify as crypto currency trading (*Kryptowährungshändler*) which is subject to a **bank license requirement**. The relevant limitations to be observed (e.g. maximum time that assets may be held on client accounts) should be addressed as **safe harbours** in the further legislative process.

In summary, the introduction of the Crypto Institution as a new license category will implement **a more stringent license requirement for activities of custodial wallet providers, brokers and market makers**, which are currently typically not subject to a prudential supervision under the current Swiss regulation.

5 Obligations for service providers for Trading Crypto Assets

The Bill will expand the point of sale and organizational obligations of the Swiss Financial Services Act (**FinSA**) to cover also service providers for Trading Crypto Assets. These obligations will be similar to the obligations applying to **financial service providers in respect of financial instruments**. In particular, service providers for Trading Crypto Assets will be required to perform a **client classification**, they will have to provide certain **information to clients**, perform **appropriateness and suitability assessments** when providing advisory or portfolio management services and comply with transparency and **duty of care obligations similar to financial service providers**.

These point of sale and organizational obligations also apply to foreign entities providing services relating to Trading Crypto Assets on a cross-border basis into Switzerland.

6 Whitepaper requirement and obligations for advertisements

Finally, the Bill introduces a requirement to prepare and make available a **whitepaper** for public offers of Trading Crypto Assets in Switzerland, for the admission to trading on a Swiss DLT trading facility and for the issuance of Swiss Stablecoins. Similar to a prospectus prepared for traditional financial instruments, the whitepaper has to incorporate all **relevant information for the investment decision** to acquire **Trading Crypto Assets** or **Swiss Stablecoins** as further specified in the Bill and the implementing ordinance and has to be published online. Also, the Bill stipulates that whitepapers prepared under an **equivalent foreign regulation** may be used instead of a whitepaper prepared in accordance with the Swiss rules.

Moreover, the Bill introduces requirements regarding **advertisements for Swiss Stablecoins and Trading Crypto Assets** that are similar to the currently existing requirements for traditional financial instruments.



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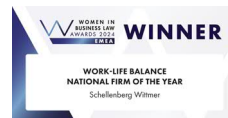
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