

# Crypto-assets and digital assets in Switzerland

*Dr Alexander Ressos, TEP  
Attorney-at-Law (Switzerland), Solicitor (Hong Kong),  
Solicitor (England & Wales)*

Switzerland was one of the first countries to adapt its civil and financial market law to blockchain technology. Businesses can issue tokenised shares and bonds on a clear legal basis, and their customers' crypto assets are protected if a custodian fails.

## 1 The DLT Act

The Federal Act on the Adaptation of Federal Law to Developments in Distributed Ledger Technology entered into force in stages in 2021. It introduced ledger-based securities: rights that are recorded in a distributed ledger and can be exercised and transferred only through it (Art. 973d ff. OR). Shares, bonds and other rights can thus be issued and traded as tokens with full legal effect.

## 2 Protection in bankruptcy

Crypto assets held in custody for customers are segregated in the custodian's bankruptcy if they are allocated to the individual customer at all times (Art. 242a DEBA). For banks the same principle applies (Art. 16 BankA).

## 3 How FINMA classifies tokens

FINMA distinguishes payment tokens, utility tokens and asset tokens and assesses each project by its economic function. Asset tokens are generally treated as securities. Payment tokens trigger the Anti-Money Laundering Act; anyone who exchanges or transfers them commercially must join a self-regulatory organisation or be supervised by FINMA. Trading facilities for DLT securities require a licence (Art. 73a ff. FMIA).

## 4 Crypto Valley

The canton of Zug and its surroundings host a large cluster of blockchain foundations, crypto banks and service providers. The canton accepts certain cryptocurrencies for tax payments, and banks in Zug and Zurich offer custody and trading.

## 5 What pays off in practice

- **Clarify the token classification with FINMA** before the launch; a ruling costs less than a later enforcement procedure.
- **Choose a custodian that segregates assets** within the meaning of Art. 242a DEBA.
- **Remember the tax side:** crypto assets of individuals are subject to wealth tax, and professional trading is taxed as income.

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