

How FINMA classifies tokens: payment, utility and asset tokens

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Whether a token issue in Switzerland is subject to securities law, banking law or anti-money laundering rules depends on what the token does. FINMA answered this question early, in its guidelines on initial coin offerings of February 2018, by looking at the economic function of each token rather than at its technical form. The resulting distinction between payment, utility and asset tokens still shapes Swiss practice, and FINMA has since added specific guidance on stablecoins that every issuer and intermediary should know.

1 Substance over form

FINMA assesses a token according to its economic function and its transferability, and it looks at the specific case rather than at the label chosen by the issuer. The same technical token can therefore be treated differently depending on the rights attached to it and the way it is offered. Many tokens combine several functions; FINMA treats such hybrid tokens under all the rules that apply to each of their functions.

2 Payment tokens

Payment tokens are intended to be used as a means of payment for goods and services or to transfer value, and they give no claim against an issuer. Bitcoin is the typical example. FINMA does not treat payment tokens as securities, but their issuance and transfer are subject to the Anti-Money Laundering Act, so that issuers, exchanges and custodians act as financial intermediaries and must meet due diligence duties.

3 Utility tokens

Utility tokens give digital access to an application or service that is provided on a blockchain infrastructure. As long as the access function is the sole purpose of the token and the application is operational when the token is issued, FINMA does not treat it as a security. If the token also has an investment purpose, or if the service does not yet exist and buyers are in effect financing its development, it may be treated as an asset token.

4 Asset tokens

Asset tokens represent assets such as a debt or equity claim against the issuer, a share in future profits or capital flows, or rights in physical assets. FINMA treats them as securities where they are standardised and suitable for mass trading. The issuer must then comply with the prospectus rules of the Financial Services Act unless an exemption applies, and intermediaries dealing in the tokens may need a licence as a securities firm. Where the tokens are issued as ledger-based securities under the DLT Act, the civil law rules explained in the article on [the DLT Act](#) also apply.

5 Stablecoins

FINMA supplemented its guidelines in September 2019 with a section on stablecoins and published further guidance in July 2024. Its approach again follows the economic substance: a stablecoin backed by a currency and redeemable at par is usually treated as a deposit, so that the issuer needs a banking licence, while a stablecoin backed by other assets may be treated as a collective investment scheme or a derivative. A stablecoin may be issued without a banking licence if a bank guarantees the claims of the holders, but FINMA has made clear that the guarantee must protect each holder individually and cover the full amount. In every case, the issuer must identify all holders under the anti-money laundering rules.

The international regulation of stablecoins in China, Hong Kong, Singapore, the European Union and the United States is described in the article on [stablecoins in the trade between Africa and China](#).

6 Asking FINMA in advance

Where the classification of a token is uncertain, the issuer can submit a request to FINMA before the issue. The request should describe the project, the rights attached to the token, its technical design, the offering

and the use of proceeds. FINMA's answer gives legal certainty and is frequently expected by banks before they open an account for the issuer.

7 How Ressos Legal helps

I analyse token projects under Swiss financial market law, prepare classification requests to FINMA, and structure token issues and stablecoin projects so that the required licences and exemptions are in place before launch. [Contact me](#) for a first conversation.

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