

The Legal Framework for Kryptowerte und Digital Assets in Switzerland — overview and summary

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When the City of Lugano announced its Plan B with Tether in March 2022, it could build on a body of Swiss law that already treated Kryptowerte und Digital Assets as a regulated field. The Swiss Financial Market Supervisory Authority (FINMA) had classified tokens since February 2018. Parliament had amended a series of federal statutes through the DLT Act of 25 September 2020, which created ledger-based securities in the Code of Obligations, a right of segregation in bankruptcy and a new licence for trading facilities based on distributed ledger technology. The Anti-Money Laundering Act had applied to exchange and custody services for years, and FINMA had imposed the travel rule without the exemption for private wallets that most other jurisdictions allowed. A Lugano founder who wishes to issue a token, a Ticino bank that wishes to offer bitcoin to its clients and a fiduciary who wishes to hold stablecoins for an Italian family all work within this framework, whose rules are federal and identical in Zurich, Zug, Geneva and Lugano.¹

This chapter asks what that framework contains, how it has developed between the first token sales of 2017 and the reform proposals of 2025 and 2026, and what it means for providers in Ticino whose natural market lies across the border in Italy. Its argument is that Swiss law approached Kryptowerte und Digital Assets through the existing categories of financial market law, adapting them where necessary. The token taxonomy of 2018 asked which known legal category a token resembled. The DLT Act inserted the new technology into the law of securities, the law of bankruptcy and the law of market infrastructures without creating a separate code for it. The European Union took the opposite course with Regulation (EU) 2023/1114, known as MiCAR, a self-contained regime with its own licences, white papers and passport. Since MiCAR became fully applicable on 30 December 2024, a Lugano provider serving Italian clients has had to reconcile two systems built on different premises, and

the Swiss reform of 2025/2026 can be read in part as a response to that pressure.

The chapter treats the token classification and the early enforcement against unauthorized offerings, the architecture and the timetable of the DLT Act, ledgerbased securities and DLT trading facilities, segregation and custody in bankruptcy, the banking perimeter with the FinTech licence and the banks that now offer Kryptowerte und Digital Assets, stablecoins, anti-money laundering law and the travel rule, the planned licences for payment instrument institutions and crypto-institutions, and taxation. It then compares the Swiss framework with MiCAR and its Italian implementation and closes with Lugano's market and a practitioner's checklist. Chapter I.I describes Plan B and its limits under currency law, Chapter I.III the research institutions and fintech companies of Ticino. Chapter G.III treats the Anti- Money Laundering Act in general, Chapter G.IV the automatic exchange of information on Kryptowerte und Digital Assets under the Crypto-Asset Reporting Framework (CARF) and the European Directive on Administrative Cooperation as amended by DAC8 together with its Italian transposition, and Chapter E.IV the rules on cross-border financial services into Italy. These subjects are referred to where needed and not repeated.

1 Conclusion

Swiss law met Kryptowerte und Digital Assets with the instruments it already had. FINMA's guidelines of 2018 asked which known category a token resembled and drew the consequences from the answer. The DLT Act of 2020 inserted ledger-based securities into the Code of Obligations, gave clients a right of segregation in the bankruptcy of their custodian and created a licence for trading facilities that combine trading, custody and settlement. The FinTech licence, the travel rule without exception and the guidance on staking, stablecoins and custody completed the picture. The result is a framework that is technology-neutral and legally precise. Its gap lay in the absence of prudential supervision for providers of exchange and custody services in payment tokens, and in a stablecoin regime that, by requiring the identification of every holder, made the issue of freely circulating tokens in Switzerland impractical.

The reform proposed in October 2025 addresses both gaps with the payment instrument institution and the crypto-institution. It would bring Swiss law closer to MiCAR in substance, although it would not give Swiss providers access to the European market. For Lugano that question matters more than for Zug or Zurich. The city's natural clients live in Lombardy

and Piedmont, where MiCAR and the Italian decree of 2024 apply, and where CONSOB and the Banca d'Italia supervise any provider that solicits them. A Lugano provider that wishes to grow beyond its existing clients must either establish itself in the European Economic Area or confine its Italian business to genuine reverse solicitation. Plan B gave Lugano visibility in the field, and the arrival of Sygnum, Bitcoin Suisse and the offer of BancaStato show that regulated institutions have followed. The legal framework within which they operate is that of the Confederation, and its next stage depends on the dispatch that the Federal Council announced for the second half of 2026. Chapter I.III turns to the research institutions and the fintech companies that form the technological basis of this development in Ticino.

2 In five sentences

Switzerland regulates Kryptowerte und Digital Assets through its existing financial market law, starting from FINMA's classification of payment, utility and asset tokens in February 2018. The DLT Act, in force since 1 February and 1 August 2021, created ledger-based securities (Arts. 973d ff. CO), the segregation of crypto-based assets in bankruptcy (Art. 242a DEBA, Art. 16 BankA) and the DLT trading facility (Arts. 73a ff. FMIA), whose first licence went to BX Digital AG in March 2025. Providers of exchange and custody services are financial intermediaries under the Anti-Money Laundering Act and apply the travel rule without an exception for private wallets, while stablecoin issuers must meet FINMA Guidance 06/2024. The Federal Council's draft of October 2025 would replace the FinTech licence with payment instrument institutions and introduce crypto-institutions, with a dispatch expected at the earliest in the second half of 2026. For Lugano providers serving Italian clients, MiCAR and the Italian decree of 2024 leave only reverse solicitation under Article 61 or an authorized establishment in the European Economic Area.

3 Notes

1. Federal Department of Finance, "Blockchain", <https://www.efd.admin.ch/efd/en/home/digitalisation/blockchain.html> (Switzerland "one of the first countries in the world to enact legal regulations for blockchain technology" with effect from 1 August 2021; "over 1000 companies" in the fintech and blockchain sector). For Plan B see City of Lugano, Plan B, <https://planb.lugano.ch/> and Chapter I.I.
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