

The method of technology neutrality

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The DLT Act avoided the word "blockchain" and the word "cryptocurrency" in the statutes it amended. It speaks of "distributed electronic registers" and of "crypto-based assets" (*kryptobasierte Vermögenswerte*), the statutory term that covers Kryptowerte und Digital Assets for the purposes of bankruptcy and banking law. The choice reflected the Federal Council's principle of technology neutrality: the law should regulate functions and risks and leave the choice of technology to the market. The provisions on ledger-based securities therefore describe the qualities that a register must have, such as integrity, transparency and the power of disposal of the creditor, without prescribing a particular protocol. The segregation rules apply to any asset whose holder can be identified in a register, whatever the technology used to keep it.¹

The same principle explains why the Act did not create a general licence for providers of services in Kryptowerte und Digital Assets. Exchanges, brokers and custodians remained subject to the existing rules. A provider that held client assets in a way that made them deposits needed a banking or FinTech licence. One that dealt in securities tokens for clients needed a securities firm licence. A provider that exchanged payment tokens or transferred them for clients was a financial intermediary under the Anti-Money Laundering Act and had to join a self-regulatory organization or be supervised directly by FINMA. This modular approach allowed Swiss law to absorb the technology without a new supervisory category. Its weakness, which the reform of 2025 seeks to address, was that a provider of pure exchange and custody services in payment tokens such as bitcoin was subject only to anti-money laundering supervision and to no prudential rules at all.

Common misconception. Switzerland is often described as having a "crypto law". There is no such statute. The DLT Act of 2020 is a framework act that amended a series of existing federal laws, and its provisions are

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found today in the Code of Obligations, the Debt Enforcement and Bankruptcy Act, the Banking Act, the Financial Market Infrastructure Act and other statutes. Services in payment tokens such as bitcoin remained outside prudential supervision and were subject only to the anti-money laundering rules until the reform proposed in 2025, which has not yet been adopted.

1 Notes

1. Art. 973d para. 2 CO, as quoted in the following section. The statutory term "crypto-based assets" is used in Art. 242a DEBA and Art. 16 para. 1bis BankA (see the section on segregation below). ↩

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