

DLT securities and the Anti-Money Laundering Act

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The Act defines DLT securities as securities in the form of ledger-based securities or other uncertificated securities held in distributed electronic registers that give the creditors power of disposal by technological means.¹ This definition links the new private-law instrument to market infrastructure law. It allows tokens that were issued before the Act, or under foreign law, to be traded on a DLT trading facility if they meet the functional requirements.

The Act also amended the Anti-Money Laundering Act to clarify that operators of DLT trading facilities are financial intermediaries, bringing certain providers of trading platforms for crypto-assets within its scope.² The Federal Council clarified in the implementing ordinance that providers of decentralised trading platforms may be financial intermediaries if they hold or can dispose of clients' assets. Truly decentralised protocols without an operator remain outside the Act. The line between the two categories has become an important question for the decentralised finance projects of Zug.

1 Notes

1. Financial Market Infrastructure Act (FinMIA, SR 958.1), Art. 2 let. bbis, [fedlex.admin.ch](https://www.fedlex.admin.ch/eli/cc/21/116_1_1) (English version as of 1 August 2021): DLT securities are securities in the form of ledger-based securities under Art. 973d CO or of other uncertificated securities held in distributed electronic registers that give the creditors power of disposal by technological processes. ↩

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2. Anti-Money Laundering Act (AMLA, SR 955.0), Art. 2 para. 2 let. dquater (official English translation, fedlex.admin.ch, via droit-bilingue.ch): trading facilities for DLT securities under Art. 73a FinMIA are financial intermediaries; PwC Switzerland, "Swiss DLT law", pwc.ch, on the extension of the AMLA to DLT trading facilities.



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