

Financial institutions: securities firms and asset managers

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The Financial Institutions Act of 2018, in force since 2020, regulates securities firms, fund management companies, managers of collective assets, portfolio managers and trustees. A company that deals in tokens qualifying as securities professionally for its own account with a short-term horizon, or for the account of clients, is a securities firm and requires a licence from FINMA.¹ Several crypto companies in Zug hold such licences, which allow them to operate as brokers and market makers in tokenised securities.

Asset managers who manage portfolios that include crypto-assets are subject to the licensing requirements for portfolio managers and managers of collective assets. Since 2020, independent portfolio managers in Switzerland require a FINMA licence and are supervised by a supervisory organisation. The authorisation covers portfolios of any composition. An asset manager that invests clients' money in crypto-assets must, however, demonstrate that its organisation and risk management are adequate for that asset class. Funds that invest in crypto-assets are subject to the Collective Investment Schemes Act. FINMA has approved Swiss funds with crypto exposure under the category of other funds for alternative investments, which are open only to qualified investors.²

Part F discussed the wealth management industry of Zug, all of which is subject to the regulation of asset managers under the Financial Institutions Act. For those who manage crypto-assets, the rules on custody are particularly important. Since a portfolio manager may not hold client assets itself, the assets must be held by a bank or another regulated custodian. For crypto-assets, that requirement means that the manager must work with a crypto bank, a bank with a crypto custody offering or a securities firm that offers custody.

1 Notes

1. Federal Act of 15 June 2018 on Financial Institutions (FinIA, SR 954.1), in force since 1 January 2020, [droit-bilingue.ch](https://www.droit-bilingue.ch): Art. 2 (scope: portfolio managers, trustees, managers of collective assets, fund management companies, securities firms); Arts. 41 ff. (definition and legal form of securities firms). ↩
2. FINMA, press release "Approval of first Swiss crypto fund", 29 September 2021, [finma.ch](https://www.finma.ch): the Crypto Market Index Fund approved as an "other fund for alternative investments" with particular risks; distribution restricted to qualified investors. ↩

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