

Practitioner's checklist: Swiss regulatory questions for a crypto business

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The following checklist summarises the regulatory questions that a crypto business in Zug should address, complementing the checklist on the structuring of token projects at the end of Part G.

- * *Token classification.* * Classify each token under FINMA's categories. Consider whether the token is a security, a deposit, a fund unit or a means of payment, and whether it is a ledger-based security under the Code of Obligations.
- * *Banking law.* * Determine whether the business accepts deposits or holds crypto-assets for clients. Check whether custody is organised so that the assets can be segregated under Article 242a of the Debt Enforcement and Bankruptcy Act.
- * *Securities law.* * Check whether a prospectus is required for an offer of tokens that are securities. Determine whether the business requires a licence as a securities firm or a trading venue.
- * *Anti-money-laundering law.* * Determine whether the business is a financial intermediary and join a self-regulatory organisation or obtain a FINMA licence. Implement the travel rule and the verification of external wallets.
- * *Asset management and funds.* * Check whether the management of crypto-assets for clients requires a licence as a portfolio manager or whether a product is a collective investment scheme.
- * *Staking and lending.* * Review staking and lending services against FINMA's staking guidance and the rules on deposits.
- * *Stablecoins.* * For the issue of stablecoins, examine the Banking Act, FINMA's guidance of 2024 and the proposed payment instrument institution.

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- * *European market.* * If the business serves clients in the European Union, assess whether MiCA authorisation is needed and whether a subsidiary in a member state or in Liechtenstein is the appropriate route.
- * *Tax reporting.* * Prepare for the reporting obligations under the Crypto-Asset Reporting Framework.
- * *Monitoring.* * Follow the revision of the Financial Institutions Act and adapt the business model when the new licence categories enter into force.

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