

The DLT Blanket Ordinance

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The Federal Council adopted an ordinance to implement the DLT Act, known as the DLT Blanket Ordinance, which amended several ordinances, among them the Banking Ordinance, the Financial Market Infrastructure Ordinance, the Anti-Money Laundering Ordinance and the Commercial Register Ordinance.¹ The ordinance set out the details of the DLT trading facility, including the capital requirements, the requirements for the technology and the thresholds for the simplified regime for small facilities. It clarified the conditions under which crypto-based assets held by banks are treated as custody assets. It also specified the obligations of providers of trading platforms under the Anti-Money Laundering Ordinance.

The ordinance and the Act together form a framework that FINMA has supplemented with its own practice. FINMA has published guidance on the licensing of DLT trading facilities and on the custody of crypto-assets. It has also answered numerous individual questions about the application of the new rules. The combination of statute, ordinance and supervisory practice is typical of Swiss financial market law, in which the statute sets principles, the ordinance sets details and the regulator applies both to individual cases with a degree of discretion.

1 Notes

1. Ordinance of 18 June 2021 on the Adaptation of Federal Law to Developments in Distributed Ledger Technology, in force since 1 August 2021 (AS 2021 400), cited in the Fedlex footnotes to Art. 6 of the Banking Ordinance (via droit-bilingue.ch); Federal Council, press release of 18 June 2021, admin.ch. ↩

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