

The legislative process

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The Federal Council's report of December 2018 concluded that Swiss law was generally suitable for distributed ledger technology but identified gaps in three areas: the transfer of rights by means of tokens, the treatment of crypto-assets in insolvency and the regulation of trading infrastructure. The Federal Council opened a consultation on a draft law in March 2019 and adopted its dispatch to Parliament in November 2019.¹ Parliament adopted the Federal Act on the Adaptation of Federal Law to Developments in Distributed Ledger Technology on 25 September 2020 without a referendum being called. The Federal Council brought the amendments to the Code of Obligations and certain other provisions into force on 1 February 2021 and the remaining provisions on 1 August 2021.²

The DLT Act is a blanket act. Creating no statute of its own, it amends ten existing federal laws, among them the Code of Obligations, the Debt Enforcement and Bankruptcy Act, the Private International Law Act, the Banking Act, the Financial Institutions Act, the Financial Market Infrastructure Act and the Anti-Money Laundering Act.³ This approach reflects the principle of technology neutrality, since the legislator wanted the general laws to accommodate the technology without a special crypto law. The Swiss industry, including the associations of Zug, took part in the consultation and supported the approach.

1 Notes

1. Federal Council, press release "Federal Council initiates consultation on improving framework conditions for blockchain/DLT", 22 March 2019, admin.ch (consultation until 30 June 2019); dispatch of 27 November 2019, BBl 2020 233, cited as such in the Fedlex footnotes to the amended provisions (e.g. Art. 242a SchKG) and in R. H. Weber, DLT-Handelsplattformen, EIZ Publishing 2022; M. Kuert/A. Bardin, CMS, "The new Swiss blockchain/DLT laws have been finalised", 15

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October 2020, cms.law: dispatch of 27 November 2019, parliamentary adoption on 25 September 2020. ↩

2. State Secretariat for International Finance, "DLT / blockchain / tokenisation", sif.admin.ch: provisions on ledger-based securities in force since 1 February 2021, the DLT Act fully in force since 1 August 2021 together with the blanket ordinance; Federal Council, press release "Federal Council brings DLT Act fully into force and issues ordinance", 18 June 2021, admin.ch. Fedlex footnotes cite the Act of 25 September 2020 as AS 2021 33, 399. ↩
3. PwC Switzerland, "Swiss DLT law: New regulations bring new opportunities", pwc.ch: the DLT Act amends ten federal laws, namely the Code of Obligations, the Federal Intermediated Securities Act and the Private International Law Act (in force 1 February 2021) and the Financial Services Act, the National Bank Act, the Banking Act, the Financial Institutions Act, the Anti-Money Laundering Act, the Financial Market Infrastructure Act and the Debt Enforcement and Bankruptcy Act (in force 1 August 2021). ↩

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