

The registration agreement and the issuer's liability

*Dr Alexander Ressos, TEP
Attorney-at-Law (Switzerland), Solicitor (Hong Kong),
Solicitor (England & Wales)*

The registration agreement is the contractual basis of a ledger-based security. It must provide that the right is registered in the securities ledger and can be exercised and transferred only through it. In practice, the registration agreement is part of the terms of the token issue, which the investor accepts when acquiring the token. For shares, the relevant provisions are contained in the articles of association of the company, which the general assembly must adopt with the necessary majority.

The issuer of a ledger-based security bears responsibility for the ledger. It must inform every acquirer about the content of the right, the functioning of the ledger and the measures that protect its integrity. It is liable for damage caused by information that is inaccurate, misleading or in breach of statutory requirements, unless it proves that it acted with due care.¹ While the liability rule gives investors a claim against the issuer where the technology fails, it also creates an incentive for issuers to choose reliable ledger technology and to document its functioning carefully. Issuers often rely on the reports of technology auditors to demonstrate that their ledger meets the requirements.

1 Notes

1. Code of Obligations (SR 220), Art. 973i (official English translation, fedlex.admin.ch, consulted via droit-bilingue.ch): the obligor must inform each acquirer of the content of the ledger-based security, the mode of operation of the ledger and the measures protecting its operation and integrity; it is liable for damage arising out of information that is inaccurate, misleading or in breach of statutory requirements, unless it proves due diligence; agreements limiting or excluding this liability are void. ↩

For general information only. This article does not constitute legal or tax advice, does not replace advice on an individual case and creates no lawyer-client relationship. It reflects the legal position as of September 2026.

Online version: helveticaregister.com/zug-the-registration-agreement-and-the-issuer-s-liability