

## FINMA Communication

# Clarifications regarding the custody of cryptoassets

Par Arthur Idiart le 10 February 2026

The growing interest in cryptoassets has been accompanied in Switzerland by the rapid development of services for the custody of these assets. Against this backdrop, on 12 January 2026 FINMA published its [Supervisory Notice 01/2026](#) on the custody of cryptoassets. It sets out the legal basis governing their custody and withdrawal in the event of the custodian's bankruptcy, while highlighting the risks associated with certain configurations, particularly when foreign sub-custodians are used.

This communication addresses four topics : (i) the custody of cryptoassets by banks, (ii) the requirements applicable to individual asset management, (iii) collective asset management, and (iv) the distribution of structured products and crypto-ETPs. With regard to the custody of these assets by banks, FINMA reiterates the principles set out in its [Supervisory Notice 08/2023](#) on staking, which have already been discussed in detail (see Caballero Cuevas, [cdbf.ch/1318](https://www.cdbf.ch/1318)). This commentary therefore focuses on the clarifications provided by FINMA with regard to asset management and crypto-based products.

## I. Requirements applicable to individual asset management

For individual asset management, FINMA specifies that the requirements applicable to the custody of assets also extend to cryptoassets, including cryptocurrencies such as Bitcoin and Ether. Asset managers must ensure that crypto assets are held with an appropriate institution ([Art. 24 FIDL](#)). An institution is considered appropriate if it meets the following four conditions :

1. Cryptoassets are held with a bank within the meaning of the Banking Act (BA), a securities firm within the meaning of the Financial Market Infrastructure Act (FMIA), a trading system for securities based on distributed ledger technology within the meaning of the Financial Market Infrastructure Act (FMIA), or a foreign institution subject to prudential supervision equivalent to that exercised in Switzerland.
2. The cryptoassets are held separately for each client.
3. The custodian has sufficient technical infrastructure and expertise.
4. The cryptoassets must be able to be distributed in the event of the custodian's bankruptcy. Where the custodian is established abroad, the supervisory regime and the applicable insolvency framework must offer protection equivalent to that provided by Swiss law.

With regard to foreign custodians, FINMA notes that certain regulatory developments, such as

the [MiCA](#) regulation in the EU, have contributed to the emergence of suitable custodians that meet both prudential supervision requirements (condition 1) and bankruptcy protection requirements (condition 4).

However, FINMA accepts two configurations for the custody of cryptoassets that do not cumulatively meet these four requirements. In the first case, the foreign custodian is subject to equivalent prudential supervision, but the applicable law does not guarantee equivalent protection in the event of bankruptcy. In the second scenario, custody is provided by a Swiss custodian subject to supervision by a self-regulatory organisation (SRO) within the meaning of the Anti-Money Laundering Act (AMLA), offering protection in the event of bankruptcy in accordance with [Art. 242a LP](#), but without being subject to prudential supervision.

In both cases, the asset manager must demonstrate that it has (i) fully informed clients of the risks associated with custody, (ii) made clients aware of the existence of suitable alternative custodians in Switzerland and abroad, and (iii) obtained their written consent to continue the relationship with the 'unsuitable' custodian.

## **II. Requirements relating to collective asset management**

With regard to collective asset management, FINMA specifies that the requirements relating to the custody of collective asset funds also apply to direct investments in crypto-assets. Thus, in accordance with [Art. 72 para. 1 LPCC](#), crypto-assets forming part of the fund's assets must be deposited with a bank within the meaning of the Banking Act (BA).

However, custody may be delegated to a third-party custodian in accordance with the principle set out in Art. 73 para. 2 LPCC. In such cases, FINMA states that (i) the third-party custodian must be subject to equivalent prudential supervision and (ii) the applicable law must guarantee equivalent protection of crypto assets in the event of bankruptcy. Furthermore, investors must be made aware of the risks associated with this delegation of authority through the prospectus and the basic information sheet.

## **III. Structured products and crypto-ETPs**

Finally, FINMA points out that the offering of crypto-ETPs (*Exchange Traded Products*) and structured products based on crypto-assets remains subject to the requirements of the FSIA. In particular, structured products issued by special purpose companies must, on the one hand, be offered by an institution subject to prudential supervision ([Art. 70 para. 2 FSGA](#)) and, on the other hand, be accompanied by either a legally enforceable guarantee provided by a financial intermediary subject to supervision within the meaning of Art. 70 para. 1 FSIA, or a legally enforceable security in favour of investors (Art. 70 para. 2 FSIA and [96 OSFin](#)).

FINMA's communication provides a welcome clarification of the requirements applicable to the custody of cryptoassets. Boosted by favourable legislative developments initiated by the US administration, there has been renewed interest in crypto assets, particularly those that digitally 'represent' a real financial asset (e.g. tokenised shares). A growing number of institutions are now incorporating crypto asset custody and trading services into their offerings.

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