

Swiss blockchain industry warns against planned FINMA practice on staking

The Swiss Financial Market Supervisory Authority (FINMA) has announced a change in practice according to which a banking license would be required for staking services in the future. The Swiss blockchain industry warns that staking can thus no longer be offered from Switzerland at competitive conditions. This is emphasized by the two associations Swiss Blockchain Federation (SBF) and the Crypto Valley Association (CVA) in a joint statement.

Bern, September 6, 2023 - Staking is an energy-efficient mechanism in blockchain networks such as Ethereum, Solana and Cardano. Participants receive a fee for depositing cryptocurrencies and validating transactions. Staking is becoming increasingly important. The market capitalization of staked assets is around USD 350 billion. There are different staking models, including user-driven staking (self-staking) and staking by service providers. Staking services are currently offered in Switzerland by both banks and service providers, which are exclusively subject to the Anti-Money Laundering Act.

FINMA justifies the change in practice with the temporary blocking of assets by staking protocols (*lock-up*) and the risk that, in the event of a false validation or other breach of the rules by the participants, their assets will be confiscated (*slashing*). In FINMA's view, these characteristics of staking protocols mean that the assets are no longer available at any time, which is why they would no longer qualify as custody assets under banking law, but as deposits from the public. The commercial acceptance of deposits from the public requires a banking license.

The Swiss blockchain industry believes this interpretation is wrong and warns of potential negative consequences. Staking is in no way linked to transformation services and is thus not comparable to the banks' lending business. The intended change in practice would also jeopardize the legal certainty achieved with the DLT legislation unanimously passed by the Parliament. Among other things, this has strengthened the protection of customers in the bankruptcy of depository institutions.

The blockchain industry points out that the new FINMA practice would lead to the migration of this business abroad. Non-banks would no longer be allowed to offer this service. Banks would have the necessary authorization but would be subject to prohibitive capital requirements in the area of crypto business. They would thus no longer be competitive. Swiss customers would also be worse off, as deposit insurance would not apply in the event of staking.

The blockchain industry calls on FINMA to make the regulatory process transparent and to actively involve the stakeholders concerned. The proposed practice is not in line with FINMA's mandate to strengthen Switzerland as a financial center – on the contrary, this practice would massively limit Switzerland's innovative strength as well as its competitiveness in international comparison.

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About the Swiss Blockchain Federation

The Swiss Blockchain Federation was founded in 2018 and is a public-private partnership that promotes legal certainty and optimal framework conditions for blockchain-based applications and business models. It has around 80 members, including the Cantons of Ticino, Zug, Neuchâtel and Zurich. The so-called Crypto Valley, which stretches from Geneva to Liechtenstein, has around 1,100 blockchain companies working with decentralized applications and over 6,000 jobs.

About Crypto Valley Association

The Crypto Valley Association is an independent, government-backed association founded to take full advantage of Switzerland's strengths and build the world's leading ecosystem for blockchain and crypto technologies. It has about 1,000 individual members and about 230 corporate members. The so-called Crypto Valley, which stretches from Geneva to Liechtenstein, has around 1,100 blockchain companies working with decentralized applications.

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