Zug, 15.01.2025

Consultation on the amendment to the Financial Institutions Act (FINIG) – Payment Institutions and Crypto Institutions

Statement by the Crypto Valley Association

Dear Sir/Madame,

The Crypto Valley Association ("CVA") is an independent, non-profit industry association based in Switzerland.

It represents a broad ecosystem of blockchain- and crypto-related companies, start-ups, established financial and technology firms, investors, service providers, and academic institutions.

CVA's mission is to strengthen Switzerland as a leading global hub for blockchain, distributed ledger technology (DLT), and digital assets by promoting innovation, high regulatory standards, legal certainty, and constructive dialogue between industry, regulators, and policymakers. CVA actively contributes to regulatory and policy discussions through its working groups, in particular the Regulatory Working Group, and through close cooperation with other Swiss industry associations.

CVA welcomes the Federal Council's decision to launch the consultation on an amendment to FINIA ("Proposal"), with the stated objectives of improving framework conditions for market development, strengthening the attractiveness of Switzerland as a financial and innovation hub, integrating innovative financial technologies into the existing financial system, and mitigating risks to financial stability, integrity, and investor and consumer protection.

CVA generally supports the consultation submission filed by the Swiss Blockchain Federation ("SBF") dated 3 December 2025, which was developed with the benefit of extensive market expertise and with contributions from a joint industry working group, including all attachments (. 1. Bemerkungen – comments, No. 2 Taxonomie – taxonomy, No. 3 Bewilligung Kaskade – licence cascade, No. 4 GWG – AML, No. 5 Bewilligungsverfahren – licencing process) hereto. We also confirm that several CVA members actively contributed to the underlying working process and drafting discussions reflected in the SBF submission, alongside experts from other Swiss industry associations.

CVA's approach is pragmatic. Switzerland should remain a jurisdiction known for legal certainty, proportionality, technology-neutrality, and credible enforcement, while avoiding unnecessary "Swiss finish" effects that would reduce Switzerland's competitiveness without delivering commensurate public-interest benefits.

Core positions of CVA

While CVA broadly supports and aligns itself with the position of the Swiss Blockchain Federation (SBF), we consider it necessary to highlight certain points that are of particular and critical importance to CVA and its members.

Given that many CVA members are early-stage and growth start-ups without large budgets for legal and regulatory services, clarity, predictability, and proportionality of the proposed framework are of paramount importance.

Legal uncertainty and regulatory over-complexity operate as de facto barriers to market access, even where the legislative intent is innovation-friendly.

1. Strong Support for the SRO Regime and the "Licensing Cascade"

The CVA expressly aligns itself with the "Licensing Cascade" (Bewilligungskaskade) model set out in Annex 3 of the SBF submission. Maintaining the Self-Regulatory Organization (SRO) regime as the foundational layer of the Swiss financial supervisory system is of existential importance for the Swiss fintech, payments, and blockchain ecosystem.

This framework has proven to be an effective, risk-based, and proportionate supervisory model for business activities that do not entail prudential risks, such as non-custodial exchange services or payment processing. Forcing small or early-stage companies directly under the supervision of the Swiss Financial Market Supervisory Authority

(FINMA) would create a disproportionate barrier to market entry and would run counter to the principle of technology neutrality.

The SRO regime, including supervision by Aufsichtsorganisationen (AO), enables innovation to develop and scale in a compliant manner before being subject to full prudential licensing requirements, while allowing FINMA to concentrate its limited supervisory resources on institutions that are systemically relevant and prudentially regulated, such as banks and securities firms. The importance of such a focus became particularly apparent during periods of market stress, including the events of March 2023, which underscored the need for intensive and effective oversight of large, complex financial institutions.

In addition, recent practical experience demonstrates that proceedings before FINMA are often lengthy and resource-intensive also for FINMA. Preserving a strong and functional SRO layer is therefore not only a matter of proportionality, but also a pragmatic necessity to ensure efficient supervision and the continued competitiveness of the Swiss financial market.

2. “Zahlungsmittelinstitute” (payment institutions) – no unintended restrictions on the issuance of other Zahlungstoken (other payment tokens), no new definition of Kundengelder (customer funds)

CVA supports the legislator’s objective to reserve the issuance of “wertstabile kryptobasierte Zahlungsmittel” (value-stable crypto-based means of payment; economically, single-fiat stablecoins comparable to MiCA “E-Geld-Token”) to supervised entities such as Zahlungsmittelinstitute (payment institutions) and banks.

However, CVA considers it essential that the reform does not unintentionally restrict the issuance of other Zahlungstoken (payment-tokens) beyond the intended scope.

Switzerland must preserve the ability to issue and operate tokenised payment and settlement instruments that are not E-Geld-Token, including asset-backed tokens or tokens representing ownership or possession rights, provided existing banking law rules are respected.

Authorized Zahlungsmittelinstitute) must be allowed to issue other payment tokens and provide custody for crypto-assets.

CVA strongly opposes the introduction of a new legal system term “Kundengelder” (customer funds), as such a concept is not necessary, would significantly contribute to legal uncertainty, and blur the existing, well-established delineation under Swiss banking law. CVA therefore strongly supports maintaining the concept of Publikumseinlagen (public deposits) and, consequently, the existing exception catalogue pursuant to Art. 5

Abs. 2 und 3 BankV (Banking Ordinance). Any deviation from this established framework would risk unintended regulatory spillovers and materially undermine legal certainty without a corresponding risk-based justification.

3. Krypto-Institut (crypto institution) – risk-based calibration, perimeter clarity, custody as the primary prudential trigger, dual supervision

The regulation of Krypto-Institute should not default to the Wertpapierhaus (securities firm) model. The regime must be strictly risk-based and calibrated between Vermögensverwalter (asset managers) and Verwalter für Kollektivvermögen (managers of collective investment schemes).

The authorisation requirement should be limited to Sammelverwahrung (collective custody). Further operational security for the offering of on-chain segregated custody could be legally stipulated without rendering such cases subject to the authorisation as crypto institutions. A simple Krypto-Wechsel (crypto exchange) without custody should not require an authorisation.

The authorisation to operate as a Krypto-Institut (crypto-institution) should also entitle to carry out the activity of a Vermögensverwalter (asset manager).

CVA strongly supports a dual supervision model with Aufsichtsorganisationen (AO) for non-significant institutes and direct FINMA supervision reserved for significant Krypto-Institute, including a voluntary opt-in.

4. FIDLEG (FinSA) interface

FIDLEG-type duties should apply only to crypto-assets with investment character and not to pure payment tokens.

5. Definitions

For “wertstabile kryptobasierte Zahlungsmittel”, the definition should reflect a single-currency stablecoin comparable to a MiCA E-Geld-Token.

To ensure legal certainty, proportionality and system coherence CVA supports the elimination of the term “kryptobasierter Vermögenswert mit Handelscharakter” (crypto-asset suitable for trading) and introduction of the system term “Anlage-Token” (investment-tokens)

In the definition of Effekten (securities), CVA recommends going one step further than SBF and explicitly adding Anlage-Token (investment-tokens) as a negative criterion hereto. This would help to delineate Effekten (securities) from crypto-assets more clearly,

improve system coherence across FIDLEG, FINIG, and broader financial market law, and reduce the risk of inconsistent classifications in practice.

Art. 3 Abs. 2 Bst. b:

b. Effekten: vereinheitlichte und zum massenweisen Handel geeignete Wertpapiere, Wertrechte, insbesondere einfache Wertrechte nach Artikel 973c OR und Registerwertrechte nach Artikel 973d OR, sowie Derivate und Bucheffekten mit Ausnahme von Zahlungsmitteln und Anlage-Token;

English: *"Securities: standardised securities and uncertificated securities suitable for mass trading, in particular simple uncertificated securities pursuant to Article 973c of the Swiss Code of Obligations (CO) and register-based uncertificated securities pursuant to Article 973d CO, as well as derivatives and book-entry securities, excluding means of payment and investment tokens"*

CVA generally strongly supports the validation of the new system terms introduced in the Proposal, in light of Annex No. 2 (Taxonomie). In particular, CVA supports clear and consistent differentiation between the following categories: "Zahlungsmittel" (means of payment), "E-Geld-Token" (e-money-token), "gedeckter Zahlungs-Token" (asset-backed payment-tokens), "Zahlungs-Token" (payment-tokens), "Anlage-Token" (investment tokens), and "Nutzungs-Token" (utility tokens).

5. Practical Calibration of AML/GwG Requirements

We strongly support the positions of the SBF submission (see Attachment No. 4) regarding the need to calibrate existing AML/GwG guidelines to digital realities. Two specific issues currently act as disproportionate barriers to market entry for start-ups:

- Digital Onboarding (Online/Video ID): The current regulatory preference for video identification and the requirement for a bank transfer as an additional authentication factor for automated online identification create significant media breaks and high operational costs. This puts Swiss fintech companies at a competitive disadvantage compared to international providers who can utilize seamless, fully automated onboarding flows.
- Travel Rule for Self-Custody: The current strict verification requirements for transactions with self-custody wallets block scalable B2C business models. We urge the adoption of a risk-based approach that accepts alternative controls or cryptographic proof of ownership / control rather than requiring full formal identification of the wallet owner for every payment interaction.

We also welcome the fact that, in contrast to FINMA's disproportionately restrictive whitelisting approach in Supervisory Notice 06/2024, the consultation draft expressly

recognizes the possibility of a blacklisting approach in Art. 8a para. 3 lit. a VE-AML. However, it is not clear why the blacklisting approach should only be applicable to stable crypto-based means of payment. The blacklisting approach must be permissible for all types of stablecoins. There is no apparent reason under money laundering law that would justify unequal treatment.

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CVA appreciates the work undertaken by the authorities and reiterates its alignment with the SBF submission. We stand ready to support further work with concrete drafting proposals focused on legal certainty, proportionality, and competitiveness.