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Switzerland: Trends and Developments
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MLL Legal

Trends and Developments

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MLL Legal has a fintech practice that stands out for its profound knowledge of and vast experience in the legal and technical aspects of fintech, as well as its comprehensive and interdisciplinary approach to finding tailor-made solutions. The practice is well-known at both the national and international scale for providing actionable advice to help clients pursue the untapped possibilities offered by new technologies. MLL Legal was a first mover amongst top-ranked firms in positioning itself within the fintech sector. This early positioning allows the team to understand the practical and legal challenges posed by new technologies, such as blockchain, artificial intelligence and the implementation of digital solutions. The firm's experts are committed to staying up to date with new industry and regulatory trends and frequently publish new developments. Accordingly, some of MLL Legal's experts are involved with institutional players such as the Swiss government and various fintech associations, contributing their views on new bills, risks and challenges in the fintech sector.

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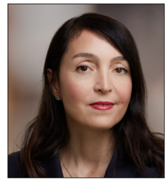

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Overview of the Swiss Fintech Market

Thanks to its well-established banking, insurance and asset management industry, highly specialised workforce, stable and robust economy – with low inflation and a strong currency – and flexible and stable political system, Switzerland has excellent market conditions to foster innovation in the financial sector.

Hence, Switzerland has adopted an innovative and fintech-friendly regulatory framework over the past ten years to boost the development of Swiss fintech business models, which have now reached a great level of maturity. In the Swiss financial market, there is no longer a clear separation between traditional financial services and fintech models. Almost every financial service offering has undergone a deep technological transformation.

The canton of Zug, which is home to the *"Crypto Valley"*, has attracted numerous international players in the crypto and blockchain space due to its business-friendly environment, clear regulatory framework and competitive tax system. This has created an ecosystem of companies, foundations, associations and networks of individuals and research institutions that not only compete, but also co-operate and exchange information to accelerate innovation in the crypto area. In 2024, the Crypto Valley was home to 17 unicorns in the blockchain industry, with a valuation exceeding USD1 billion.

The Main Fintech Technologies and Applications Offered in Switzerland and Their Regulatory Framework

The main technologies that thrive in the financial services sector are:

- digitalisation and online services;
- blockchain and Web3 applications; and
- artificial intelligence (AI).

The following sections provide key examples and outline the regulatory framework.

Digitalisation of financial services

The fintech transformation has been driven by a shift to digital and online services and applications, including instant and contactless payment systems, which are now widely used by both retail and businesses. Traditional banks and financial intermediaries have largely maintained their market share by progressively and steadily transforming their services into personalised online offerings.

Online banking and financial services applications

In Switzerland, online applications that cater to various financial needs, ranging from mobile banking apps to investment platforms, have become the standard channels for individuals and companies to access banking and other financial services. For example, UBS, Raiffeisen, and many other Swiss and foreign banks offer mobile apps that allow their users to manage bank accounts, make transfers, view account statements and more.

In asset management, Swissquote leads the market as the most prominent platform providing online trading services, investment solutions and wealth management. True Wealth, Findependent, Inyova, Selma Finance and VIAC are Swiss wealth management platforms that use exchange-traded funds (ETFs) to create diversified, low-cost portfolios. Another notable app, Yuh, is a digital investment platform providing users with the ability to invest in stocks, ETFs and other financial instruments through an easy-to-use interface. SwissBorg, primarily focused on cryptocurrencies, offers smart portfolio management and a trading app that simplifies investment in digital currencies. Leonteq provides tailored investment and trading solutions for both institutions and private investors, specialising in structured products.

The so-called smartphone banks, or neobanks, are digital-only banks that operate primarily through mobile apps and websites without physical locations. Amongst such players, Radicant, Yapeal, Alpian, Yuh, Fiat24, Neon and Zak lead the market in Switzerland. From a regulatory perspective, digital-only banks operate in the same way as traditional banks and hence require a banking licence based on the technology neutrality of financial market regulations. However, they must adapt their risk management to the relevant business model, implementing adequate business continuity and cyber-risk policies to guarantee access to, and the servicing of, clients' assets and data. For instance, Neon works with Hypothekarbank Lenzburg (HBL) as a banking partner, and Yapeal and Fiat24 operate under the so-called fintech licence, which offers a simplified regulatory regime and is mainly available for companies accepting public deposits of up to CHF100 million in fiat currencies and cryptocurrencies in an unlimited amount, subject to certain exceptions.

Online payment systems

Digital payment solutions and mobile banking are steadily expanding in Switzerland. Contactless payments, mobile wallets, and peer-to-peer payment apps have become increasingly popular among retail and businesses. Both established banks and fintech start-ups provide mobile banking apps with features such as instant payments, money transfers, and account management.

The Swiss Interbank Clearing (SIC) payment system, powered by SIX Interbank Clearing AG and the Swiss National Bank (SNB), launched instant payments in November 2023. Larger banks have been required to accept incoming instant payments since August 2024, and other banks are required to follow suit by the end of 2026. TWINT, the leading Swiss mobile payment system, enables seamless in-store and online (P2M) and person-to-person (P2P) transactions via mobile phones, removing the need for cash or physical bank cards.

Whilst accepting deposits from the public usually requires a banking or fintech licence, the provision of payment services is usually only subject to anti-money laundering (AML) requirements. Where the payment service or system includes the acceptance of deposits from the public, the need for a banking licence can be avoided by applying the 60-day settlement exception, by only allowing a credit balance of CHF3,000 per customer or by working with a bank default guarantee, each of which is subject to certain requirements. Service providers and state agencies such as the cantonal tax administration of Zug and the administration of the canton of Tessing increasingly accept payments with Bitcoin.

Open banking

Open banking in Switzerland is gradually evolving, with several companies leveraging the technology to enhance the accessibility and integration of financial services. In Switzerland, open banking is usually based on a standardised exchange of data amongst service providers, ensuring data confidentiality and leaving the decision to share personal data with the customer. In 2023, the Swiss Bankers Association established an open banking framework in a memorandum of understanding (MOU) to facilitate open banking, to open interfaces and to facilitate data exchange amongst different stakeholders. Further, OpenBankingProject.ch has been launched to examine how open banking can support the financial services industry.

So-called embedded finance, which is a major trend related to open banking, integrates a financial service within another product or service and hence enhances the user experience. The introduction of an electronic identification (e-ID) system, which is expected to launch in 2026, may accelerate the development of embedded finance solutions.

Crypto services: use of distributed ledger technology to register ownership and conduct transactions and trading

The potential of the blockchain and distributed-ledger technology remains largely untapped for the most substantial part of the financial services industry, in Switzerland and abroad, being used only to a very limited extent in asset management. Regulation is mainly to blame for this. The Swiss Financial Market Supervisory Authority (FINMA) issued its initial coin offering (ICO) guidelines in 2018, outlining its regulatory practice for the qualification of tokens. Payment tokens (synonymous with cryptocurrencies) are tokens intended to be used, now or in the future, as a means of payment for acquiring goods or services or as a means of money, value storage or transfer. Payment tokens are not treated as financial instruments if they are operational on a blockchain. The acceptance of payment tokens from the public can however trigger the application of the banking or fintech licence regulations. Sygnum Bank and AMINA Bank are well known banks in the fintech space that offer storage of cryptocurrencies. Besides banks, Switzerland has several pure-play wallet providers such as Relai, Swiss Fortress and Thor Wallet. These kinds of providers hold cryptocurrencies in either individual custodial wallets or non-custodial wallets, neither of which is affected by bankruptcy of the service provider. This is the reason why they do not require a banking licence, but in case of custodial wallets may be subject to AML regulations. In contrast, so-called asset tokens, which represent a claim against an issuer (such as a debt or equity claim), qualify as securities if they are standardised and mass-tradable. They are treated according to their economic function, for instance as shares (equity), bonds, derivatives, collective investment schemes or structured products. Their issuance can become subject to financial market regulations, such as licensing for underwriting or derivatives issuance activities, or prospectus obligations. Utility tokens that provide access (digitally) to applications or services through a blockchain-based infrastructure do not qualify as financial instruments and are accordingly not subject to financial market regulations.

So far, banks and securities dealers, which already hold the relevant licence, have not issued any stablecoins. Stablecoins have the potential to disrupt payment systems and traditional business models, and can potentially pose a challenge to monetary policy, as they can be seen as a substitute for fiat currencies. In July 2024, FINMA published its Guidance 06/2024 on stablecoins, resulting in a change to its regulatory practice. According to FINMA, the AML regulations now also apply to secondary market transactions by the issuer of a stablecoin. Therefore, regulatory hurdles remain to be overcome for stablecoins to succeed in the Swiss market. At the same time, since December 2023, the SNB has been testing a wholesale central bank digital currency (CBDC) on the regulated platform SIX Digital Exchange (SDX), and Swiss Stablecoin AG has led the initiative with respect to a regulated digital Swiss franc in co-operation with the SNB and FINMA. However, the issuance of a retail digital Swiss franc as a replacement for the fiat currency is politically disputed and therefore not in sight.

In Switzerland, there are three licensed trading venues: SIX Swiss Exchange, the traditional stock exchange of the SIX Group; SDX Trading AG, of the same group, designed for the trading of ledger-based securities – ie, securities issued on a blockchain or on another distributed ledger technology (DLT); and the traditional stock exchange of BX Swiss AG. However, SDX Trading AG does not operate a so-called DLT trading venue, which was introduced with the DLT Act in 2021. A DLT trading venue enables the trading of ledger-based securities on the blockchain and allows, with possession of the licence mentioned in the foregoing, (i) direct access for retail, (ii) the holding of ledger-based securities in central custody and (iii) clearing and settlement. Recently, SDX Trading AG has introduced the SDX Web3 service, which provides financial institutions with crypto custody, crypto trading and collateral services with crypto-assets. As the SIX Group is mainly governed by banks, a full decentralisation would not fit their core strategy. The third trading venue is BX Swiss AG, which is also a traditional stock exchange. BX Digital, a sister company of BX Swiss and part of the Boerse Stuttgart Group, will be granted a DLT trading venue licence from FINMA in the short term on 18 March 2025, becoming the first DLT trading facility that allows DLT securities to be traded. This development is expected to unlock an important aspect of the DLT potential of the Swiss financial market, even though the licence does not currently allow direct access to retail, but only to licensed supervised participants. In addition, BX Digital does not offer custody of DLT securities, which must be offered by the relevant participants.

A large proportion of the investment in crypto-assets is made into cryptocurrencies, such as Bitcoin or Ether, which are already offered by private and cantonal banks. In contrast, specialised crypto-native custody providers in Switzerland support, according to a recent survey, up to 1,100 different coins and tokens. Since 2013, Bitcoin Suisse has offered investments in crypto-assets, including storage in individual vaults or collective wallets, where the latter benefits from a default guarantee from Swiss banks. Whilst the individual custody of cryptocurrencies that can be segregated in case of bankruptcy, and that are kept available for the customer at all times, does not trigger a licensing requirement under the Banking Act, the collective custody of cryptocurrencies usually requires a banking or fintech licence unless there is a default guarantee from a bank or another exemption applies.

Developments in the field of AI

AI, which represents a megatrend, is increasingly being used in the front and back offices of financial institutions, such as in document analysis, compliance and fraud detection, asset and risk management, personalisation and marketing, investment research and process automatisation. The first and most mature model in this field is the chatbot. Chatbots are used by most financial institutions, including insurance companies (eg, in their claims handling) and banks (in their customer service lines).

Recent surveys indicate that approximately two-thirds of asset managers are either planning to implement at least one generative AI (GenAI) use case this year. One of the most notable applications is the ability to manage personalised portfolios, improving client satisfaction. AI tools improve risk management by spotting patterns and predicting market changes using advanced data analytics. Switzerland hosts several providers of AI solutions for asset managers, including Avaloq, Advanon, Swissquote, Temenos and Actico.

At the end of January 2025, UBS announced that it has joined forces with Microsoft's Azure AI to power smart assistants that streamline content access and provide real-time information to client advisors, to in turn provide more tailored and efficient services to clients.

Structural Impact of Trends in the Industry and Macroeconomic Developments

The disappearance of intermediaries

In the long run, blockchain technologies combined with AI may eliminate an important part of the value chain, namely the intermediation of services, giving investors direct access and allowing them to take final decisions with efficient AI assistance. This diminishes the counterparty credit risks of using intermediaries and reduces costs.

In a world where tokenised securities are becoming more prevalent, collective investment schemes may be significantly impacted because less regulated exchange-traded products (ETPs), non-listed actively managed certificates (AMCs) or an investment strategy crafted by an asset manager might replace the traditional collective investment fund for the management of tokenised securities directly invested from investors' wallets.

The retailisation of services

The retailisation trend – ie, the so-called democratisation of investments, is a result of the availability of highly digitised, automated and scalable online asset management solutions for retail and the high costs of traditional intermediaries.

In the mid- to long term, tokenisation and DLT trading venues will empower retail to directly make investments, thereby enhancing its financial situation, including more investments in illiquid or non-bankable assets. This could reduce fiat in bank accounts, benefitting direct retail investments in private equity or debt via crowdlending platforms and again removing intermediation.

Market structure and competition

Healthy market competition is essential for driving innovation. Due to the merger of Credit Suisse and UBS, there may be certain parts of some business segments that are subject to control by the Swiss Competition Commission. Switzerland has strict competition and anti-trust rules in place to protect competitiveness.

Furthermore, Switzerland has a liberal regime with regard to cross-border banking services and providing asset management services in Switzerland. Foreign financial institutions that operate on a strict cross-border basis can provide their services to residents in Switzerland without obtaining a licence. This enhances the competitiveness of foreign players in the Swiss market, though the unequal conditions may not necessarily be fair for Swiss players. Nevertheless, this situation honours the core principles of the WTO's multilateral General Agreement on Trade in Services (GATS). Foreign service providers that provide an activity subject to licence in Switzerland may not create a physical presence, such as by establishing a branch or representative office or by having employees or agents in Switzerland on a permanent basis, without first obtaining the required Swiss licence or affiliation with a self-regulatory organisation for AML purposes. Revolut is an example of a foreign bank in the fintech sector that ended up establishing a physical presence in Switzerland, now holding a licence as a Swiss representative office. Furthermore, BBVA SA, part of a Spanish group, has a long-standing presence in the Swiss market, holding a fully fledged banking licence. In Switzerland, BBVA has expanded its offerings to include investments in digital assets and online banking and investment applications.

Swiss Regulatory Trends

The main regulatory trends in the Swiss fintech space are as follows.

- FINMA clarified, at the end of 2023, that custodial staking services generally require a banking licence under the Banking Act, unless assets are staked with individual segregation. The temporary locking of assets by staking protocols, and the risk that assets could be seized from participants in cases of improper validation (slashing), must be considered, especially by regulated players. This clarification enhances legal certainty and will help the staking industry develop more steadily.
- In December 2023, Switzerland and the UK signed the Berne Financial Services Agreement to strengthen co-operation between the two financial centres.
- In July 2024, FINMA's issued its stablecoin guidance, clarifying that the Anti-Money Laundering Act also applies to stablecoin secondary market transactions, though some aspects require further clarification.
- In March 2024, the limited qualified investor fund (L-QIF) regulation entered into force, providing for a new fund category that does not require a licence and can only be offered to qualified investors. This licence may also be used by funds issuing tokenised fund shares.
- In December 2024, FINMA issued its Guidance 08/2024 (Governance and risk management when using artificial intelligence) for supervised institutions (including fintech companies) using AI. FINMA highlights AI risks for supervised institutions, emphasising the importance of data quality, explainability, cybersecurity and comprehensive risk management. Institutions must ensure robust governance, ongoing risk assessment and effective management of third-party liabilities and testing protocols. However, it is anticipated that, due to AI's capabilities in conducting enhanced risk management, it may become a required tool for risk management in the coming years, rather than being considered a risk.
- In February 2025, the Federal Council published a comprehensive report on AI regulation, outlining three potential regulatory approaches: (i) continuation of topic- and sector-specific regulatory activities; (ii) ratification of the Council of Europe's AI Convention; and (iii) alignment with the EU AI Act. The report emphasises the importance of aligning with international standards while preserving Switzerland's innovation-friendly environment. In particular, the Federal Council confirmed that it will maintain Switzerland's sector-specific regulatory framework rather than implementing a general cross-sector AI law. Further, it confirmed that it will implement the Council of Europe's AI Convention through sector-specific amendments to existing Swiss laws. Only key areas relevant to fundamental rights, such as data protection, will be subject to general cross-sectoral regulation. There will, therefore, be no Swiss equivalent to the EU AI Act. In addition to legislation, non-legally binding measures (such as self-disclosure agreements) will be devel-

oped to help implement the AI Convention. A draft law is expected in 2026.
- Switzerland will implement the OECD's Crypto-Asset Reporting Framework (CARF) from 1 January 2026, requiring crypto service providers to report non-Swiss clients to the Swiss Federal Tax Administration (SFTA).
- The State Secretariat for International Finance (SIF) is currently reviewing Switzerland's fintech architecture and discussing topics such as whether crypto and payment regulations shall be amended, and whether the sandbox and the fintech licence shall continue to exist in their current form.

In summary, Switzerland's fintech landscape is characterised by its innovative regulatory framework, robust digital infrastructure and collaborative ecosystem that fosters growth and development in the financial services sector.

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