Custody selection

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A fund's custody decision follows its vehicle and its regulator. A Swiss L-QIF in contractual or SICAV form requires a Swiss custodian bank, which holds fiat and securities and delegates token custody to a specialist custodian under a sub-custody agreement, with the custodian bank remaining liable for the selection and instruction of the sub-custodian.[1] The Swiss crypto custodians that take fund mandates are banks (Sygnum, AMINA), securities firms and SRO-affiliated custodians. The choice between them turns on the insolvency segregation under Art. 242a DEBA and Art. 16 BankA, which Part D, Chapter IV, analyses. It also turns on whether the fund wants its tokens staked, which requires a custodian that offers staking under the FINMA 2023 guidance.[2]

A Singapore VCC's custodian is chosen by the manager, who is responsible under the fund-management licence for the safe custody of assets. MAS requires licensed fund managers to place assets with an independent custodian. That custodian must be a licensed bank, a licensed trust company, a licensed custodian under the SFA or, for digital payment tokens, a licensed DPT custodian under the PSA. The segregation rules for DPT custodians in force since 2024 require customer assets to be held on trust in segregated wallets.[3] The Singapore custodians that take fund mandates include the licensed arms of the global exchanges and the custody units of the local banks. Many Singapore funds also use Swiss custodians, because Swiss insolvency segregation under Art. 242a DEBA is statutory and tested, whereas the Singapore trust-based segregation has not yet been tested in a custodian insolvency.

Notes

1. CISA, SR 951.31, Art. 72 and Art. 73 (custodian bank: duties; delegation to third-party custodians in Switzerland or abroad; liability for careful selection, instruction and monitoring). Part D, Chapter IV.
2. Debt Enforcement and Bankruptcy Act of 11 April 1889 (DEBA; SchKG), SR 281.1, Art. 242a (segregation of crypto-based assets in bankruptcy); Banking Act of 8 November 1934 (BankA; BankG), SR 952.0, Art. 16 no. 1bis; FINMA Guidance 08/2023 of 20 December 2023 on staking. Part E, Chapter VIII.
3. Securities and Futures (Licensing and Conduct of Business) Regulations, reg. 26 (custody of assets by licensed fund management companies); Payment Services Act 2019, s. 23A and Payment Services (Safeguarding of Customers' Assets) Regulations (DPT custodians to hold customers' DPTs on trust and segregated), in force from 4 October 2024. Part K, Chapter II.

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