Staking custody

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Staking means committing tokens to a proof-of-stake network to earn validation rewards. Four models exist. In solo staking the holder runs her own validator with her own keys and bears all risk. In delegated or non-custodial staking the holder keeps the withdrawal key and assigns only the validation right to an operator. In custodial staking the custodian holds the tokens and stakes them on the client's behalf, keeping all keys. In liquid staking the holder deposits tokens into a protocol and receives a transferable receipt token (stETH, rETH, cbETH) that represents the staked position and accrues rewards.

Each model answers the control question differently, which is why FINMA's staking guidance of 20 December 2023 turned on it. FINMA concluded that a custodian who stakes client tokens does not thereby accept a deposit, and that the tokens remain segregable under Art. 242a DEBA and Art. 16 BankA, provided three conditions are met. The client must have instructed the staking, the tokens must be attributable to the client at all times (including while locked in the validator), and the custodian must disclose and manage the slashing and lock-up risks.[1] The guidance noted the legal uncertainty whether a token locked in a validator contract is still "held" by the custodian and flagged that courts or the legislator might take a different view.

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Singapore's position is set by the retail ban. Since the consumer-access measures took effect in 2024, a DPT licensee may not offer staking or lending to retail customers at all. For accredited and institutional customers it may, subject to disclosure and risk management.[2]

The custody question for institutional staking in Singapore remains the trust analysis described above, with the additional complication that tokens locked in a validator may be beyond the custodian's immediate reach for the duration of the unbonding period.

Cross-border perspective

A Swiss custodian offering staked ETH custody to a Singapore fund must satisfy both regimes at once. For Switzerland, document the client instruction, maintain attribution through the staking period and disclose slashing risk, so that Art. 242a protection survives under FINMA's 2023 conditions. For Singapore, confirm that the fund is an accredited or institutional investor, so that the retail ban does not apply, and that the fund's own Singapore custodian or administrator can account for the staked position as a trust asset. Run the two analyses on one fact pattern and record both in the engagement file.

Notes

1. FINMA Guidance 08/2023 of 20 December 2023 on staking (FINMA media release of the same date), setting out the conditions for continued segregation and describing the position as an interim one pending clarification by the courts or the legislator. See Part E, Chapter VIII. ↩
2. MAS, Guidelines on Consumer Protection Measures by Digital Payment Token Service Providers (PS-G03), section on prohibited services for retail customers (staking, lending, incentives, credit), phased in from 4 October 2024 to 19 June 2025. Part K, Chapter III. ↩

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