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Regulatory Update

Topic	FINMA-Guidance 01/2026 – Risks in the custody of crypto-based assets (January 2026)
Content	On 12 January 2026, FINMA published Supervisory Notice 01/2026 on the custody of crypto-based assets. The reason for this is the increased market interest in crypto services as well as inquiries about the treatment of foreign custodians in the wake of the DLT framework legislation and the EU regulation (MiCA). The communication identifies three risk categories: operational risks (cyber attacks, private key security, infrastructure dependency), counterparty risks (lack of segregation in the event of bankruptcy) and legal risks in foreign custody (no equivalent bankruptcy protection, lack of prudential supervision). The requirements are specified according to the type of institution: banks are allowed to hold custody protected against bankruptcy; in the case of foreign delegations, equivalent supervision and bankruptcy protection are mandatory. FinIA asset managers are subject to the same principles; non-compliant constellations are only permitted in exceptional cases with customer information, alternative information and written consent. Collective assets under the CISA generally require a Swiss custodian bank. In the case of crypto ETPs and structured products, the security in rem must also be enforceable in the event of the custodian's bankruptcy. Regulatory responsibility always remains with the approved institution and cannot be circumvented by foreign products or by third-party delegation.
Source	FINMA Guidance 01/2026
Types of instrutions affected	All institutions providing crypto services are affected, including banks, securities firms and asset managers, fund management companies and managers of collective assets, as well as providers of structured products and crypto ETPs.
Legal Reference	FINMA-Guidance 01/2026
Need for action	Institutions must review their existing custody constellations for crypto assets for prudentially supervised custodians and equivalent bankruptcy protection, check outsourcing agreements with custodians for completeness and adapt them where necessary, and document customer information on

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	custody risks. We actively support our clients in implementing the requirements. Your mandate leader will contact you in this regard.
Implementation deadline	The supervisory announcement was published on 12 January 2026. It is not a new law, but a binding clarification of expectations by FINMA; the requirements specified therein apply with immediate effect.