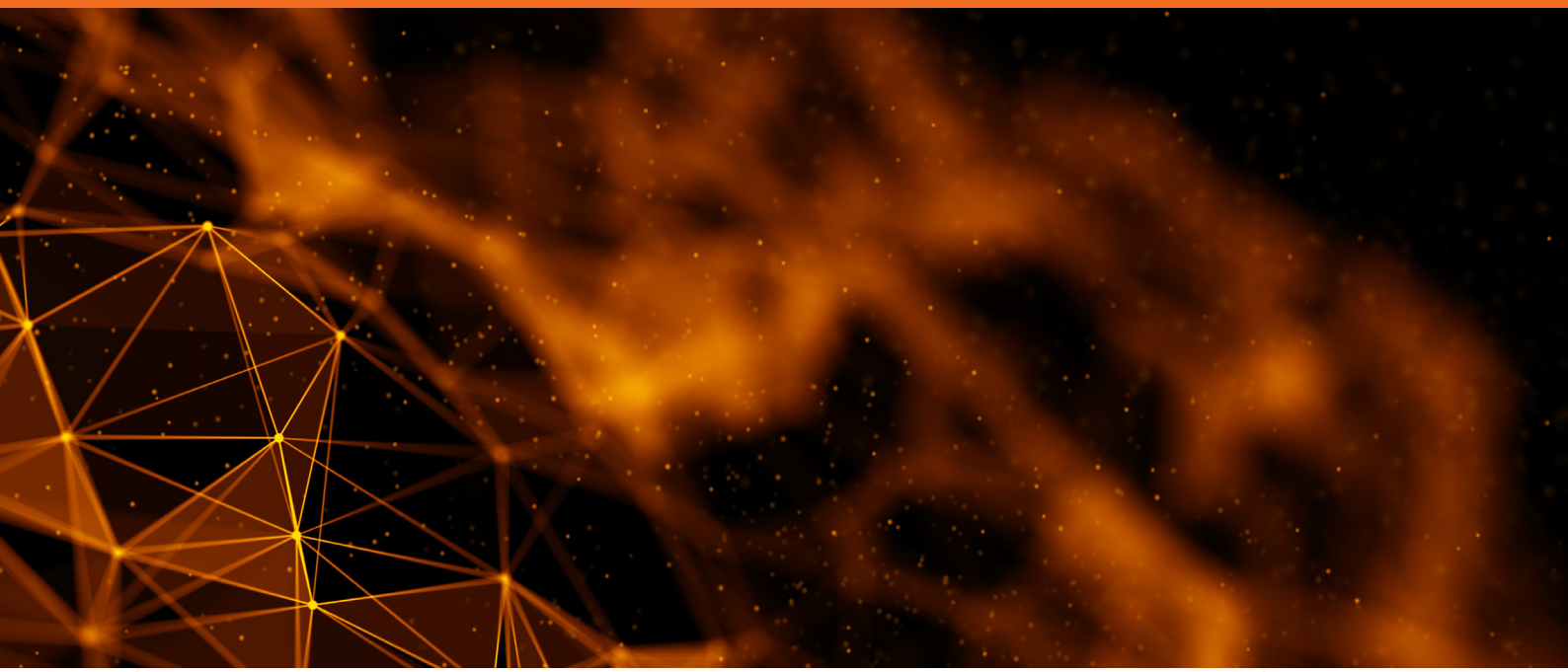

Switzerland FINMA Extends Transitional Period for Exchange of Collateral in OTC Derivatives Transactions

On 9 October 2025, the Swiss Financial Market Supervisory Authority (**FINMA**) issued Guidance 04/2025, announcing an extension of the transitional period for the exchange of collateral in certain over-the-counter (**OTC**) derivative transactions. The current transitional period, which was due to expire on 1 January 2026, will now be extended for an additional three years until 1 January 2029. The extension applies to transactions not cleared through a central counterparty authorised or recognised by FINMA to maintain regulatory equivalence and market stability in line with evolving global frameworks.

FINMA's Guidance 04/2025 builds upon prior extensions issued under Article 131 paragraph 6 of the Financial Market Infrastructure Ordinance (**FinMIO**). The obligation to exchange suitable collateral in non-centrally cleared OTC derivatives transactions is grounded in Article 107 paragraph 1 in conjunction with Article 110 paragraph 1 of the Financial Market Infrastructure Act (**FinMIA**) of 19 June 2015. The new guidance extends the transitional period defined under Article 131 paragraph 5bis FinMIO, which previously covered options on individual equities, index options, and similar equity derivatives such as baskets of equities. The decision follows developments in the EU, where an indefinite exemption from collateral exchange was introduced under Article 11 paragraph 3a of Regulation (EU) No 648/2012 (EMIR), and similar exemptions are being considered in the UK. FINMA's guidance therefore ensures continued competitive parity and legal certainty within the Swiss derivatives market.

Extension of Transitional Period

"FINMA is extending the transitional period specified in Article 131 paragraph 5bis FinMIO to 1 January 2029."

The decision marks a continuation of prior extensions issued through FINMA Guidance 04/2019, 09/2020, and 09/2023. The scope includes equity options, index options, and equity basket derivatives, ensuring that traders are not disadvantaged compared to their EU or UK counterparts.

International Developments and Regulatory Rationale

"Based on these international developments and to avert disproportionate competitive disadvantages for Swiss derivatives traders, the transitional period needs to be extended again."

FINMA noted that the EU's indefinite exemption, introduced in December 2024, necessitated a corresponding adjustment to Swiss law. The extension aligns with Article 131 paragraph 6 FinMIO, which authorises FINMA to modify the transitional timeline to reflect global regulatory trends. FINMA also expressed support for embedding a long-term regulatory solution into the ongoing FinMIA revision to ensure sustained consistency with international frameworks.

Compliance Obligations for Supervised Institutions

"Supervised institutions active in derivatives trading have to comply with risk management requirements, which are applicable to them and in this context have to consider the risks which stand to the trading of options on individual equities, index options or similar equity derivatives."

Institutions must continue to implement adequate internal risk controls, particularly in relation to counterparty exposure, operational resilience, and collateral management practices during the extended transitional period.

Timeline

The guidance takes effect immediately upon publication on 9 October 2025, extending the collateral exchange transitional regime until 1 January 2029. The measure ensures Swiss regulatory parity with the EU and UK while the broader FinMIA revision process progresses toward codifying a permanent, harmonised framework for OTC derivatives oversight.

(Source: https://www.finma.ch/en/news/2025/10/20251009-meldung-am-04-25/)

United States SEC Postpones Crypto Task Force Roundtable on Financial Surveillance and Privacy

On 8 October 2025, the United States Securities and Exchange Commission (**US SEC**) postponed its scheduled Crypto Task Force Roundtable on Financial Surveillance and Privacy due to a lapse in federal appropriations. The event, originally set to take place at US SEC Headquarters in Washington D.C. from 1:00 PM to 4:00 PM ET on 17 October 2025, will be rescheduled to a later date. Registration had been open for in-person attendance, with a webcast option available to the public. Updated details on the agenda and participating panelists will be announced once a new date is confirmed.

The Crypto Task Force roundtable is intended to serve as a policy forum for public discussion on financial surveillance, privacy, and digital asset compliance. Under US SEC's Crypto Task Force initiative, to address evolving regulatory questions surrounding data protection, transaction monitoring, and market transparency in digital finance.

The Crypto Task Force roundtable brings together regulators, legal experts, and industry participants to deliberate on issues of financial surveillance, consumer privacy, and cross-border data governance within the context of digital asset markets.

United States SEC Statement on Postponement

"Due to a lapse in appropriations, this roundtable will be rescheduled to a later date."

"The SEC's Crypto Task Force will host a public roundtable to facilitate an in-depth discussion on policy matters related to financial surveillance and privacy."

(Source: https://www.sec.gov/newsroom/meetings-events/crypto-task-force-roundtable-financial-surveillance-privacy)

Switzerland FINMA Chair Highlights AI's Expanding Role in Financial Supervision at Paris AMF–AEFR Conference

On 30 September 2025, the Swiss Financial Market Supervisory Authority (**FINMA**) Chair, Marlene Amstad, addressed the AMF–AEFR Conference on Technological Frontiers in Finance in Paris. The event was hosted by the Autorité des Marchés Financiers (**AMF**) and the Association Europe Finances Régulations (**AEFR**), featuring global regulators including Tuhin Kanta Pandey, Chair of the Securities and Exchange Board of India (**SEBI**), and Tuang Lee Lim, Assistant Managing Director of the Monetary Authority of Singapore (**MAS**) and Chair of the IOSCO Fintech Task Force. The discussion focused on the growing influence of artificial intelligence (**AI**) across financial markets and regulatory supervision. Amstad outlined FINMA's findings from Swiss market surveys, the IOSCO SupTech Survey, and the global implications of AI for financial stability, governance, and international cooperation.

The conference brought together international financial regulators to examine how AI is transforming the operation and oversight of financial systems. Amstad's address presented empirical findings from FINMA's three surveys covering over 400 licensed Swiss institutions, banks, insurers, and asset managers, establishing that AI adoption is both widespread and rapidly evolving.

AI Adoption in Swiss Financial Markets

"FINMA's three surveys of around 400 licensed institutions show that a significant part already use AI or have initial applications in development."

Amstad observed that for each AI application already deployed, two more are under development. Financial institutions are applying AI to process optimisation, text generation, and generative chatbots. The reliance on external providers, particularly among smaller firms, has introduced new dimensions of outsourcing and operational risk. Governance models are adapting, with nearly half of Swiss institutions adopting formal AI strategies addressing data protection, cyber security, data quality, and risk management.

AI as a Driver of Supervisory Technology (SupTech)

"AI has become a leading enabler of SupTech adoption, ahead of cloud and improved data access."

Drawing on the IOSCO SupTech Survey conducted under FINMA's leadership, Amstad explained that supervisory authorities are shifting from experimentation to full operational use of technology. The report, presented at the IOSCO Annual Meeting in May 2025, confirmed that AI now plays a central role in market surveillance and investor protection. Authorities are also exploring its application in digital asset supervision, despite persisting challenges around cyber security and third-party dependencies.

AI and Financial Stability

"International standard-setting bodies have identified four key risks associated with AI in financial services."

These risks include third-party concentration, market correlations, cyber threats, and model risk tied to data quality and governance. While these are not new, Amstad emphasised that AI may accelerate their impact. She underscored that a technology-neutral and proportional supervisory approach is essential to address these challenges effectively.

The conference built upon the findings of the IOSCO Annual Meeting held in May 2025, where SupTech developments were first formally reviewed. By September 2025, FINMA's participation at the Paris conference reaffirmed Switzerland's leadership in advancing cross-border supervisory cooperation. The discussions aimed to strengthen alignment among regulatory bodies in addressing AI-related systemic risks and promoting trust in financial oversight frameworks.

The Paris dialogue reinforced that AI integration into financial systems demands coordinated regulatory governance. FINMA's approach reflects a balanced, principle-based methodology, prioritising resilience, data integrity, and operational transparency within a technology-neutral framework.

(Source: https://www.finma.ch/en/~/media/finma/dokumente/dokumentencenter/myfinma/finma-publikationen/referate-und-artikel/20250930-amme-paris-amf-aefr-konferenz.pdf?sc_lang=en)

US SEC's Caroline Crenshaw Criticises No-Action Relief Allowing State Trust Companies to Custody Crypto Assets

On 30 September 2025, the U.S. Securities and Exchange Commission (**US SEC**), through its Division of Investment Management, issued a no-action letter permitting state-chartered trust companies to act as custodians for crypto assets under the United States Investment Advisers Act of 1940 and the United States Investment Company Act of 1940. The relief allows investment advisers, registered investment companies, and business development companies to treat certain state trust companies as "banks," provided they operate under state supervision and possess fiduciary authority. The decision triggered immediate dissent from US SEC Commissioner Caroline A. Crenshaw, who issued a strongly worded statement titled "Poking Holes: Statement in Response to No-Action Relief for State Trust Companies Acting as Crypto Asset Custodians." Crenshaw warned that the new relief dilutes investor protections embedded in federal custody regulations and bypasses statutory due process, underscoring the need for formal rulemaking on digital asset custodianship.

The US SEC's no-action relief enables state trust companies supervised under state banking authority to act as crypto asset custodians. The relief applies if custodians adhere to anti-commingling rules, maintain client asset segregation, and implement secure storage measures, including encryption and deep-cold storage systems. Commissioner Crenshaw's statement challenges this action, arguing it undermines federal prudential standards while introducing regulatory inconsistency. Her response emphasises that core custodial protections under the United States Investment Advisers Act and United States Investment Company Act exist to safeguard public trust by ensuring client assets truly exist, a principle forged after historical fraud cases such as Madoff and Stanford International Bank Ltd.

Custody Framework and Investor Protection

"Degrading our custody framework is a serious matter. The statutes and rules regarding custody are what stand between American investors and the risk of theft, loss, or misappropriation of their assets."

Commissioner Crenshaw publishing her dissent reiterates that the US SEC's custody rules exist to protect investors through oversight and accountability. She expressed concern that the new relief "erodes rules to pave the way for custodians who admit they do not meet current standards."

Relief Without Legal or Factual Justification

"Today's no-action position lacks factual support in key areas and provides scant legal justification for poking holes in core statutory protections."

Crenshaw asserts that the agency's justification rests on a false presumption that no compliant custodial entities exist. She argues the no-action relief "jumps the gun," preempting ongoing Commission rulemaking and granting state trust companies privileges historically limited to federally chartered institutions monitored by the Office of the Comptroller of the Currency (OCC).

Comparative Risk: State Trust Companies vs. Banks

"State trust companies differ from traditional custodians." Crenshaw details that qualified custodians under federal law include banks, broker-dealers, and futures commission merchants. Banks undergo OCC examinations, maintain segregated accounts, and benefit from federal receivership oversight in case of insolvency. State-chartered trusts, she concludes, fall under "an inconsistent hodgepodge of less rigorous rules" varying across jurisdictions such as Wyoming and New York, which have developed crypto-specific charters.

Regulatory Disparity and Compliance Burden

"With today's action, state trust companies can bypass the entire OCC application process." Crenshaw elaborates fairness concerns, arguing that relief disadvantages compliant applicants seeking national charters. The uneven supervisory environment, described as "fifty-state regulatory roulette," undermines market integrity and consistent investor protection standards envisioned by Congress in the United States Advisers Act and the United States Investment Company Act.

Crypto Exception and Custody Regime Integrity

"No idea! This relief doesn't contemplate the idea of allowing state trust companies to custody anything other than crypto assets." Crenshaw points to selective treatment of crypto assets despite their high fraud risk i.e. losses from cryptocurrency-related fraud exceeded USD 5.6 billion in 2023 according to the FBI's Internet Crime Complaint Center.

Procedural Integrity and Rulemaking Necessity

"Executing a shift of this magnitude via no-action relief without public comment and without any economic analysis is ill-advised."

Crenshaw cautions that this circumvention of rulemaking may conflict with the Administrative Procedure Act and undermine the Commission's own Spring 2025 Regulatory Flex Agenda, which lists pending custody rule amendments. Her critique frames the relief as an "easy way out" that could preempt formal policymaking.

Compliance Interpretation

"The NAL does not expand the definition of a permissible custodian under the Advisers Act and 1940 Act. Rather, it provides a staff position regarding the use of entities for crypto asset custody that I would contend already are permissible custodians."

From a compliance standpoint, this means:

- Enforcement posture only: The NAL represents a conditional staff position. Firms relying on it must maintain written records proving equivalence of oversight, capital adequacy, and fiduciary safeguards between the chosen state trust company and an OCC-supervised bank.
- Rule 206(4)-2 (Custody Rule) remains fully applicable i.e. segregation of client assets, recordkeeping, reconciliation, and annual surprise audits continue unchanged.
- Disclosure requirements under Form ADV Items 9 and 15 must be updated to describe the nature and scope of the custody arrangement.
- Audit documentation must evidence segregation, access controls, and proof-of-reserve reconciliation.

Scope of the No-Action Letter

The NAL applies only to crypto assets that qualify as "funds and securities" under the Advisers Act or "securities and similar investments" under the 1940 Act. It also extends to tokenised equity and debt instruments. The NAL does not apply to unregistered or purely utility-based crypto tokens outside the portfolio of a registered adviser or fund.

(Source: https://www.sec.gov/newsroom/speeches-statements/crenshaw-093025-poking-holes-statement-response-no-action-relief-state-trust-companies-acting-crypto)

United States SEC Commissioner Hester Peirce Calls for Principles-Based Crypto Custody Rules at Singapore Digital Assets Summit

On 30 September 2025, United States SEC Commissioner Hester M. Peirce addressed the Digital Assets Summit in Singapore, delivering remarks titled "Cultivating Confidence: The Role of Custody in Institutional Confidence – Public Trust and Oversight." Commissioner Peirce spoke on the challenges of crypto custody and the urgent need for clarity in regulatory treatment of custodians. She emphasised that investor trust depends on effective and adaptable custody frameworks, not outdated prescriptions. The Commissioner discussed how restrictive regulatory steps, such as the US SEC's Staff Accounting Bulletin No. 121 and the Special Purpose Broker-Dealer framework, hindered market participation. Peirce urged regulators to consider principles-based custody frameworks and recognise technological solutions like blockchain transparency and smart contracts. She reaffirmed that fostering investor confidence requires balancing regulatory oversight with commercial reality.

Commissioner Peirce's speech examined how regulatory uncertainty in the United States affects institutional confidence in crypto custody. She outlined the evolution of the US SEC's approach to custody, from the 2020 Special Purpose Broker-Dealer (**SPBD**) framework to the 2025 reversal of Staff Accounting Bulletin 121 through Staff Accounting Bulletin No. 122. The Commissioner warned that over-regulation could restrict access to qualified custodians and drive investors towards unregulated markets. She encouraged collaboration through the US SEC's Crypto Task Force, which continues to engage public feedback on custody frameworks.

"A trustworthy custodian protects customer assets from loss, destruction, and theft and is subject to a framework for protecting customer assets from creditors of the custodian and from competing claims by other customers if the custodian fails."

"Keeping pace may mean grounding rules in principles, rather than attempting to prescribe custodial practices."

Regulatory Background and Proposals

The Commissioner referred to multiple US SEC initiatives that shaped the custody landscape.

She stated: "The SEC's Special Purpose Broker-Dealer framework for the custody of digital asset securities, for example, proved virtually unusable due to unrealistic constraints."

She noted that "Staff Accounting Bulletin 121… made custodying crypto assets commercially impracticable for companies that could not afford the capital charges associated with having custodied assets on balance sheet." Peirce welcomed the reversal through Staff Accounting Bulletin 122 in January 2025, but cautioned that bank capital regulations may still deter traditional custodians from entering crypto custody.

Principles-Based Approach and Technological Integration

Peirce advocated a flexible framework that accommodates blockchain technology, self-custody, and smart contracts. She said: "Perhaps registrants should be able to use custodians other than traditional financial institutions. Perhaps advisers with the technical ability to do so should be able to custody crypto assets themselves." She showcased that distributed ledger technology can "mitigate information asymmetry and allow investors to verify assets held by a custodian in real-time."

Conclusion

Commissioner Peirce's remarks show towards a jurisprudential shift from prescriptive to principles-based regulation, rooted in the need for commercial practicality and technological adaptability. Her position signals that the future of United States custody regulation in digital assets may depend on redefining what qualifies as a "custodian" under the Investment Advisers Act and related securities laws.

(Source: https://www.sec.gov/newsroom/speeches-statements/peirce-093025-cultivating-confidence-role-custody-institutional-confidence-public-trust-oversight)

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