

Press release

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FINMA is investigating ICO procedures

The Financial Market Supervisory Authority FINMA has observed a marked increase in initial coin offerings (ICOs) conducted in Switzerland. It has today therefore issued FINMA Guidance 04/2017 on this topic. FINMA has also indicated that it is investigating a number of ICO cases to determine whether regulatory provisions have been breached.

In recent times FINMA has observed a marked increase in initial coin offerings (ICOs), either conducted in or offered from Switzerland. ICOs are a digital form of the initial public offerings that businesses carry out but which, by contrast, exclusively take place using blockchain technology. FINMA recognises the innovative potential of such technology and has been supporting efforts in developing and implementing blockchain solutions in the Swiss finance industry for several years.

ICOs may come under existing regulatory legislation

How ICOs are structured from technical, functional and business standpoints varies markedly from offering to offering. ICOs are currently not governed by specific regulations, either globally or in Switzerland. Swiss legislation on financial markets is principle-based; one such principle is technology neutrality. Collecting funds for one's own account without a platform or issuing house is unregulated from a supervisory perspective in cases where repayment is not obliged, payment instruments have not been issued and no secondary market exists.

Depending on how an ICO is structured, however, some parts of the procedure may already be covered by existing regulations. As specified in [FINMA Guidance 04/2017](#), published today, this concerns the following areas in particular:

- provisions on combating money laundering and terrorist financing;
- banking law provisions;
- provisions on securities trading;
- provisions set out in collective investment scheme legislation.

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Given the close resemblance, in some respects, between ICOs/token-generating events and conventional financial-market transactions, one or more aspects of financial market law may already cover ICO campaigns according to their various models. FINMA is currently looking into a number of different cases. Moreover, whenever FINMA is notified about ICO procedures that breach regulatory law or which seek to circumvent financial market law it initiates enforcement proceedings.

Information for investors

Coins or tokens acquired through an ICO may be subject to high price volatility. Additionally, many cryptocurrency projects are still in early stages of development. Consequently, considerable uncertainty remains as to how they will be financed and implemented in the future.

FINMA cannot rule out that ICO activities may be fraudulent, especially in light of current market developments. A few days ago, it therefore published a press release informing the general public about enforcement proceedings currently in progress and how it deals with [fake cryptocurrencies](#). It also issued a general warning about increased fraudulent activity by fake cryptocurrency providers.