

## Bitcoins

The term ‘Bitcoin’ refers to a virtual currency that can be used to purchase goods and services. The use of bitcoins as a means of payment is not state-controlled. Individuals who intend using bitcoins commercially are obliged to find out whether they are in compliance with licensing requirements under financial market legislation.

The term ‘Bitcoin’ refers to an internet currency whose monetary units are created and managed decentrally on a computer network. Bitcoin users who are connected with each other via the internet can transfer bitcoins to one another electronically. Bitcoins only exist virtually on a computer network and have no physical equivalent. Bitcoins are traded in a completely decentralised way on the internet and do not have to be processed via intermediaries of any kind (e.g. countries, central / commercial banks).

Depending on the business model, trading with bitcoins requires a licence from FINMA.

### **Growing interest in bitcoins**

Since 2013, FINMA has received numerous queries asking if commercial activities involving bitcoins require a licence. Although Swiss supervisory law contains no specific provisions on virtual currencies, it is still possible – depending on the business model – for trading in bitcoins to require a licence from FINMA.

In FINMA’s experience, the greatest interest among people in Switzerland regarding bitcoins relates to the following activities:

- using and accepting bitcoins as a means of payment to acquire goods or services,
- buying and selling bitcoins, and
- operating platforms for buying and selling bitcoins.

Despite growing interest, and compared with other means of payment, bitcoins remain relatively insignificant in this regard in Switzerland.

### **Paying with bitcoins: a risk?**

The use of bitcoins as a means of paying for goods and services in Switzerland is not regulated; in other words, no special licence is required. This applies both to those who pay in bitcoins and those who receive payments in bitcoins.

But this does not mean that there are no risks in using bitcoins. As the Federal Council noted in its report on virtual currencies dated 25 June 2014,

users face an increased risk of fraud and loss. This is mainly because bitcoins can be used anonymously and trade in bitcoins does not have to take place via state institutions or banks.

**Some activities involving bitcoins are subject to money laundering regulations**

The purchase and sale of bitcoins on a commercial basis is subject to Switzerland's Anti-Money Laundering Act. The same applies to the operation of trading platforms which are used to transfer money or bitcoins from a platform's users to other users. Before commencing operations, a provider of services of this kind must either become a member of a self-regulatory organisation (SRO) or apply to FINMA for a licence to operate as a directly supervised financial intermediary (DSFI).

Each business model is assessed individually to establish which licensing requirements must be complied with.

Where bitcoin trading activities fall under the Anti-Money Laundering Act, compliance with various duties of due diligence is mandatory. As a consequence of their technical features, bitcoins facilitate anonymity and cross-border asset transfers. Trading in bitcoins is therefore associated with heightened risks relating to money laundering and the financing of terrorism. Strict duties of due diligence, particularly as regards client identification, therefore apply.

**A banking licence may be required**

Some commercial activities involving bitcoins require a banking licence. This is generally the case when an organisation, as part of its business activities, accepts money on a commercial basis from clients and keeps it in its own accounts. The same applies to providers who accept bitcoins from clients and administer bitcoin holdings for clients.

Where operators are obliged to obtain a banking licence from FINMA, they must first submit a specific licence application and go through a licensing process. When this is complete, they are subject to prudential supervision. This means that FINMA will monitor the company on an ongoing basis to ensure that it complies with the relevant regulations, especially in relation to capital adequacy requirements.

**FINMA investigations**

If FINMA receives specific information indicating that an activity relating to bitcoins is being conducted without the requisite FINMA licence or an SRO membership, it will launch an investigation. If the suspicions turn out to be justified, FINMA will take all necessary action to restore compliance with the law. This may result in the liquidation of the company in question. Furthermore, any breach of licensing requirements under supervisory law is a criminal offence and FINMA will inform the relevant prosecution authorities accordingly.

FINMA's website ([www.finma.ch/e/beaufsichtigte](http://www.finma.ch/e/beaufsichtigte)) contains information on whether a provider has been granted a FINMA licence or is an SRO member.

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**For more information**

See the Federal Council's report on virtual currencies dated 25 June 2014 in response to postulates from Schwaab (13.3687) and Weibel (13.4070).

**→ [Click here for full report](#)**

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