

# LEXIFY INSIGHTS

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## SWITZERLAND'S FIRST RETAIL BITCOIN ETF: HOW FINMA GOT THERE, AND WHAT IT ASKS IN RETURN

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## Introduction

FINMA has approved the first Swiss retail fund that invests directly in Bitcoin by derogating, in an individual case, from the risk diversification rules, and has tied the approval to its January 2026 custody guidance and to strict FinSA conduct at the point of sale.

## Switzerland's first retail Bitcoin ETF: how FINMA got there, and what it asks in return

### Key takeaways

- On 20 October 2026, FINMA approved the first exchange-traded retail fund in Switzerland that invests directly in Bitcoin, classified under Swiss law as an “other fund for alternative investments” with a specific risk.
- The approval rests on an exemption from risk diversification rules, which Article 101 CISO allows FINMA to grant in individual cases; FINMA based it on Bitcoin's long trading history and high trading volume.
- Bitcoin held by a Swiss fund must generally be kept by a Swiss custodian bank under FINMA Guidance 01/2026, which FINMA made part of the conditions for this approval.
- Swiss financial service providers distributing the fund must apply FinSA rules of conduct strictly, including clear volatility and loss warnings and a careful suitability assessment.
- The fund is approved for public offering in Switzerland only, so it opens no distribution route into the EU.

## Key definitions

- **Bitcoin ETF:** FINMA's term for an exchange-traded retail fund that invests directly in Bitcoin (FINMA press release, 20 October 2026).
- **Other fund for alternative investments:** An open-ended collective investment scheme whose investments, structure, investment techniques and restrictions have a risk profile typical of alternative investments (Art. 71(1) CISA). “Other funds” are open-ended schemes that are neither securities funds nor real estate funds (Art. 68 CISA).
- **Custodian bank:** The bank, licensed under the Banking Act, that holds the fund's assets, handles the issue and redemption of units and monitors compliance with the law and the fund regulations (Arts. 72(1) and 73(1) and (3) CISA).
- **Warning clause:** The statement of special risks that requires FINMA approval and must appear on the first page of the fund regulations, the prospectus and the key information document (Art. 102 CISO).
- **Key information document (KID):** The document a producer must prepare before a financial instrument is offered to private clients (Art. 58(1) FinSA).

## What FINMA approved

On 20 October 2026, FINMA announced that it had, for the first time, approved an exchange-traded retail fund investing directly in Bitcoin. Under Swiss law, the fund is an “other fund for alternative investments” with a specific risk. FINMA added that other fund providers have submitted or announced applications of their own.

FINMA did not name the fund. BIT Asset Management has since stated that its Bitcoin Fund ETF (BBIT) is expected to start trading on SIX Swiss

Exchange in November 2026, and that it is approved for public offering in Switzerland only.

FINMA had already authorised, in 2021, a fund for qualified investors investing primarily in a basket of cryptocurrencies. What is new is a single-asset fund open to retail investors. BBIT is structured as a contractual investment fund, so that combination required FINMA to approve the fund contract (Art. 15(1)(a) CISA) and to set aside the diversification rules that would normally apply.

## The legal mechanism: a derogation in an individual case

CISA already gives alternative funds room to concentrate. Article 69(2)(c) CISA allows these funds to make investments with limited risk diversification. A fund holding a single asset goes beyond limited diversification, so FINMA relied on Article 101 CISO, which lets it admit derogations, in individual cases, from the rules on permitted investments, investment techniques, restrictions and risk diversification.

FINMA gave its reasons: Bitcoin has a long trading history and a particularly high trading volume compared with other cryptocurrencies.

**Lexify's view:** We read this as a reasoned, case-specific derogation whose precedent value depends on those reasons. Article 101 CISO is framed around individual cases, and FINMA's justification rests on facts particular to Bitcoin. A promoter planning a single-asset fund in another crypto-asset should expect to build its own factual case on trading history, liquidity and valuation, and should treat the Bitcoin outcome as a reference point rather than an entitlement.

## Custody: Guidance 01/2026 becomes a condition of approval

FINMA requires supervised institutions to mitigate operational and custody risks as set out in its Guidance 01/2026 of 12 January 2026. The statutory baseline is CISA: the custodian bank must be a bank within the meaning of the Banking Act (Art. 72(1) CISA), and it holds the fund's assets (Art. 73(1) CISA).

A custodian bank may delegate safekeeping to third-party custodians in Switzerland or abroad where this serves appropriate custody, and investors must be informed of the related risks in the prospectus and the KID (Art. 73(2) CISA). For crypto-assets, Guidance 01/2026 (section 3.3) narrows this in practice. Direct investments in crypto-based assets held by Swiss collective investment schemes must generally be kept at a Swiss custodian bank, and delegation is possible only to a third party subject to equivalent prudential supervision and equivalent bankruptcy protection for crypto-based assets.

Investors also benefit from the general segregation rule. If the fund management company becomes bankrupt, the assets and rights belonging to the fund are segregated in favour of investors (Art. 40(1) FinIA).

**Lexify's view:** Promoters should design custody to Guidance 01/2026 from the outset, because a set-up that departs from it is unlikely to pass approval. By making the guidance a condition of this approval, FINMA has turned it into the working standard for any custody model behind a Swiss Bitcoin fund.

## Point of sale: FinSA conduct, applied strictly

FINMA states that, when financial instruments based on cryptocurrencies are offered, FinSA rules of conduct must be strictly adhered to. Clear risk

warnings must be given, including on volatility and the risk of losing money, and particular attention must be paid to the suitability assessment.

### What the rules require

- For investment advice on individual transactions, the provider must ask about the client's knowledge and experience and check appropriateness before recommending the instrument (Art. 11 FinSA).
- For portfolio-based advice and for asset management, the provider must obtain information on the client's financial situation, investment objectives, knowledge and experience (Art. 12 FinSA).
- A personalised recommendation to a private client must be accompanied by the KID where one is required (Art. 8(3) FinSA). The producer must prepare the KID before offering to private clients, unless the instrument can be acquired for them only within an asset management mandate (Art. 58(1) and (2) FinSA).
- The special risks of an alternative fund must appear in its name, prospectus, KID and advertising (Art. 71(3) CISA), and the FINMA-approved warning clause must sit on the first page of the fund regulations, prospectus and KID (Art. 102 CISO).

**Lexify's view:** The regulated wrapper gives FinIA portfolio managers better product documentation, while their own suitability duty stays exactly where it was. A Bitcoin fund placed in a balanced mandate still needs a documented rationale that fits the client's risk profile and the mandate's investment guidelines.

## The EU angle: no passport, and a signal

BBIT is approved for public offering in Switzerland only, since FINMA approval carries no EU passport. EU retail fund distribution generally relies on the UCITS framework, whose eligible-asset and diversification rules do not accommodate a fund holding a single crypto-asset. The approval therefore has no direct effect on distribution to EU investors.

**Lexify's view:** In our view, the signalling value for Switzerland's position as a crypto hub, compared with the EU under MiCA, is probably larger than any measurable flow of capital this fund will attract; this is our judgement, and no source yet quantifies it.

## What we would advise now

### FinIA portfolio managers and client advisers

- Run product due diligence on the fund before it enters the approved product list, including the custody chain disclosed in the prospectus and KID.
- Map the fund to client risk profiles and to each mandate's investment guidelines, and document the suitability (Art. 12 FinSA) or appropriateness (Art. 11 FinSA) assessment.
- Review client risk disclosures so that volatility and loss warnings are specific to crypto-assets, consistent with FINMA's statement of 20 October 2026.
- Where clients hold foreign crypto funds that you sponsor or manage, check custody against Guidance 01/2026, which applies the same safekeeping principles to such structures (section 3.2).

### Promoters considering a Swiss crypto-asset fund

- Prepare a reasoned derogation request under Article 101 CISO, grounded in the asset's trading history, liquidity and valuation.
- Design custody with a Swiss custodian bank, or an equivalently supervised and bankruptcy-protected delegate, in line with Guidance 01/2026 (section 3.3).
- Draft the fund documentation as a single package: the fund contract for FINMA approval (Art. 15(1) CISA), the prospectus (Art. 48 FinSA), the KID (Art. 58 FinSA) and the FINMA-approved warning clause (Art. 102 CISO).

### What to watch

- The SIX listing of BBIT, which the issuer expects in November 2026.
- Further FINMA approvals, given that other providers have applied or announced applications.
- Whether FINMA grants a derogation to a single-asset fund in any crypto-asset other than Bitcoin.

### Deadlines and key dates

| Date                     | Event                                                                  | Source                               |
|--------------------------|------------------------------------------------------------------------|--------------------------------------|
| 29 September 2021        | FINMA authorises a crypto basket fund for qualified investors          | FINMA press release                  |
| 12 January 2026          | FINMA publishes Guidance 01/2026 on the custody of crypto-based assets | FINMA Guidance 01/2026               |
| 20 October 2026          | FINMA announces approval of the first Swiss retail Bitcoin ETF         | FINMA press release, 20 October 2026 |
| November 2026 (expected) | Expected start of BBIT trading on SIX Swiss Exchange                   | Issuer statement                     |

## FAQ

### **Can retail investors in Switzerland now buy a Bitcoin fund?**

Yes, once it lists. On 20 October 2026, FINMA approved the first exchange-traded retail fund investing directly in Bitcoin, and the issuer expects trading on SIX Swiss Exchange in November 2026. Until now, Swiss retail exposure came mainly through crypto ETPs, which FINMA treats as structured products under FinSA. (FINMA press release, 20 October 2026; FINMA Guidance 01/2026, section 3.4)

### **Why did FINMA allow a fund that holds only one asset?**

Article 101 CISO lets FINMA admit derogations from risk diversification rules in individual cases. FINMA used that power here, citing Bitcoin's long trading history and particularly high trading volume compared with other cryptocurrencies. Because the derogation is case-specific, funds in other crypto-assets would need their own justification. (Art. 101 CISO; FINMA press release, 20 October 2026)

### **Where must a Swiss fund's Bitcoin be held?**

Generally at a Swiss custodian bank. Guidance 01/2026 states that direct crypto investments of Swiss collective investment schemes must generally be held there, with delegation possible only to a custodian under equivalent prudential supervision and equivalent bankruptcy protection. (Arts. 72(1) and 73(2) CISA; FINMA Guidance 01/2026, section 3.3)

### **What must an asset manager do before putting the fund into client portfolios?**

Apply FinSA rules of conduct strictly. FINMA expects clear warnings on volatility and the risk of loss, and particular attention to suitability. For portfolio-based advice and asset management, Article 12

FinSA requires information on the client's financial situation, objectives, knowledge and experience. Document the assessment against the mandate's guidelines. (FINMA press release, 20 October 2026; Art. 12 FinSA)

### **Can the fund be marketed to investors in the EU?**

A FINMA approval carries no EU passport, and EU retail fund distribution generally relies on the UCITS framework, which a single crypto-asset fund does not fit. (Directive 2009/65/EC, Arts. 50 and 52)

### **Does FINMA approval make Bitcoin a safer investment?**

FINMA states that investments in Bitcoin remain highly risky even through an approved ETF, and that the capital invested may lose a significant amount of its value. The fund structure addresses custody and governance risks; market risk stays with the investor. (FINMA press release, 20 October 2026)

## **How Lexify can help**

Lexify supports fund promoters and fund management companies with the documentation behind a FINMA application for a crypto-asset fund, in particular the prospectus, together with the fund contract, the key information document and the warning clause, and with structuring custody in line with Guidance 01/2026. We also help FinIA portfolio managers update product due diligence and suitability documentation before the fund enters client mandates.

# Contact

## Connect with us

Thank you for taking the time to read our article. We hope you find it informative and engaging. If you have any questions, feedback, or would like to explore our services further, we're here to assist you.

## Contact Information

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