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Entry into force of second part of DLT Act and its associated ordinance on 1 August 2021

Walder Wyss Ltd | Tech, Data, Telecoms & Media - Switzerland

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Introduction

On 25 September 2020 Parliament passed the Federal Act on the Adaptation of Federal Law to Developments in Distributed Electronic Register Technology (DLTA).⁽¹⁾ The DLTA selectively, as a blanket act, adapts 10 existing federal laws. The aim of the DLTA was to improve the conditions for blockchain and distributed ledger technology (DLT) companies in Switzerland, thereby making the country an international pioneer in modern regulation of innovative financial market technologies (for further details, please see "[New Swiss DLT regulation as of 2021](#)").

Some amendments provided for by the DLTA took effect on 1 February 2021 – namely, amendments to:

- the Code of Obligations;
- the Federal Act on Intermediated Securities;
- the Federal Act on International Private Law;
- the Federal Act on Financial Services; and
- the Federal Act on Financial Institutions.

On 18 June 2021 the Federal Council decided to bring the DLTA fully into force as of 1 August 2021. The associated ordinance (the DLTO)⁽²⁾ will also take effect on the same day. The DLTO, as a blanket ordinance, sets out the necessary adjustments to 10 existing ordinances – including:

- the Ordinance on Procedures for Bankruptcy Offices;
- the Banking Ordinance;
- the Financial Institutions Ordinance;
- the Ordinance on Combating Money Laundering and Terrorist Financing;
- the Financial Market Infrastructure Ordinance; and
- the Auditor Oversight Ordinance.

Key changes

Some key changes that will come into force on 1 August 2021 are as follows:

- A licence for DLT trading facilities (ie, financial market infrastructures for DLT securities that can admit other companies and people to trading in addition to financial intermediaries) will take effect.
- The DLTO also regulates certain details regarding claims in bankruptcy. Legal certainty will be increased in insolvency law by explicitly regulating the segregation of crypto-based assets in the event of bankruptcy.
- Small DLT-based trading facilities will be given organisational, institutional and financial reliefs, based on the principle of proportionality.

Comment

The partial entry into force of the DLTA on 1 February 2021 has already provided welcome legal clarifications for market actors in this sector, in particular by recognising the growing and widespread use of DLT and crypto-based assets and removing the barriers for DLT applications and the implementation of abuse-mitigating measures.

With the full entry into force of the DLTA and the entry into force of the DLTO, Switzerland will further improve its world-class and pioneering infrastructure for financial markets, which should enable it to remain at the forefront of the DLT and fintech scene. The new rules entering into force will further improve the resilience and integrity of the Swiss financial market.

For further information on this topic please contact [Jürg Schneider](#), [Hugh Reeves](#) or [Lucas Nanchen](#) at Walder Wyss by telephone (+41 58 658 58 58) or email (juerg.schneider@walderwyss.com, hugh.reeves@walderwyss.com or lucas.nanchen@walderwyss.com). The Walder Wyss website can be accessed at www.walderwyss.com.

Endnotes

- (1) The DLTA is available in [German](#), [French](#) and [Italian](#).
- (2) The DLTO is available in [German](#), [French](#) and [Italian](#).



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