



UPDATE: BaFin call for expressions of interest regarding crypto custody business

On 4 December 2019, the German Federal Financial Supervisory Authority (*Bundesanstalt für Finanzdienstleistungsaufsicht* – “BaFin”) has published a call for informal and non-binding expressions of interest from service providers that already engage in crypto custody business or intend to do so (www.bafin.de/dok/13300614)¹. BaFin’s call aims at obtaining a market overview at an early stage to facilitate a smooth transition into the new legal regime.

BaFin emphasizes that the licensing procedure for crypto custody business will be governed by the general provisions and follow the ordinary proceedings under the German Banking Act. According to BaFin, expressions of interest submitted in the context of the call do not constitute a binding commitment or obligation by the participants to proceed with a licensing application. They are informal, voluntary and have no effect on any potential future licensing procedures. They also do not replace the formal written notification of the intention to apply for a crypto custody business license that is required to benefit from the grandfathering rules.

The submission may be sent to BaFin via letter or e-mail (Kryptoverwahrung@bafin.de) and should mention the company’s name, a contact person as well as a brief description of the business model. Participating service providers will not receive any immediate confirmation of receipt or assessment of the information submitted. However, BaFin intends to provide more detailed information and guidance to participating service providers as soon as it specifies its administrative practice regarding the approval and ongoing supervision of crypto custody business.

The call for expressions of interest may be an attractive option for service providers to commence an exchange of information with BaFin in light of the new licensing requirements. It should be noted, however, that such a submission does not have any direct impact



See our Client Newsletter:
 > www.hengeler.com/de/crypto-custody

¹ www.bafin.de/DE/Aufsicht/BankenFinanzdienstleister/Zulassung/Kryptoverwahrgeschaef/kryptoverwahrgeschaef_artikel.html



on subsequent licensing proceedings, and that BaFin will not provide any evaluation of the information it receives under this expression of interest. Service providers that intend to make use of the grandfathering rules for crypto custody business (see Hengeler Mueller Client Newsletter [New German laws on crypto custody](#) – What to do next for crypto custody service providers?) should in any case coordinate their approach closely with BaFin.

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