Hong Kong General Chamber of Commerce
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29 August 2025

Mr Christopher Hui, GBS, JP
Secretary for Financial Services & the Treasury
Financial Services & the Treasury Bureau
24/F, Central Government Offices
Tim Mei Avenue, Tamar
Hong Kong

Dear Chris,

Re: FSTB Public Consultation on Legislative Proposals to Regulate Dealing in Virtual Assets and Virtual Asset Custodian Services

The Hong Kong General Chamber of Commerce appreciates the opportunity to contribute to the development of the virtual asset (VA) dealing and custodian service regulatory frameworks, which we recognize as significant for fostering the sustainable growth of Hong Kong's VA ecosystem and upholding our city's position as a leading global financial centre.

Our recommendations are centered on the principle of striking a pragmatic balance between rigorous investor protection and the promotion of market innovation. In this respect, we provide specific input to key operational aspects, including the scope of services allowed, transitional measures implemented for pre-existing VA dealing and custodian service providers and the proposed powers of the Securities and Futures Commission (SFC) and the Hong Kong Monetary Authority (HKMA). We anticipate that such suggestions will be conducive to the implementation of an effective VA regime that is both agile and internationally competitive.

Our responses to the consultative proposals are as detailed in the attached, for consideration.

Yours sincerely,

Patrick Yeung
CEO

Encl.

Public Consultation on

1) Legislative Proposal to Regulate Dealing in Virtual Assets; and
2) Legislative Proposal to Regulate Virtual Asset Custodian Services

Submission by The Hong Kong General Chamber of Commerce (HKGCC)

General Comments

HKGCC welcomes the opportunity to respond to both consultation papers. We support the Government and the Securities and Futures Commission's (SFC) continuing efforts to put in place an appropriate and comprehensive regulatory regime for the VA sector. The objective of the regime should be to strike the right balance between protecting investors, and provide sufficient incentives to encourage new investment and growth in the sector to satisfy consumer and business demand. Considering evolving global developments, Hong Kong's framework should be agile enough to maintain its competitiveness as a leading financial hub while effectively managing potential new risks. This approach will facilitate the city's attraction of innovation and talent, thereby solidifying its position in the global digital asset landscape.

We elaborate on the consultation questions of each legislative proposal in turn.

Part 1: Responses to Consultation Questions of the Legislative Proposal to Regulate Dealing in Virtual Assets

Q1. Do you agree with the proposed definition and scope of VA dealing services? Are there any potential exemptions which you consider appropriate?

We note that the proposed definition of "dealing in VAs" is closely mirrored upon the definitions of "dealing in securities" (Type 1 regulated activity) and "dealing in futures contracts" (Type 2 regulated activity) contained in Schedule 5 to the Securities and Futures Ordinance (Cap 571) (the "SFO"), which covers a wide range of VA transactions and business models. We agree that this approach is appropriate having regard to the "same business, same risks, same rules" principle and the policy objective of developing a comprehensive regulatory framework for VA-related activities.

In this connection, and consistent with the "same business, same risks, same rules" principle, we are of the view that it will be appropriate to introduce a set of exemptions comparable to those available for Type 1 and Type 2 regulated activities under the SFO. In particular, intermediaries licensed for Type 9 regulated activity (asset management) under the SFO should be exempted from the requirement to obtain a VA dealing licence to the extent that the act is performed solely for the purposes of carrying on its asset management activities, which would include placing a trade order for the acquisition or disposal of VAs for the purpose of the management of a portfolio which may comprise or include VAs, provided that the Type 9 asset manager has obtained an uplifting in accordance with the existing rules and regulations. Similarly, the "as principal" exemption should also be made available, so that person who trades or deals in VAs in its capacity as principal - which would include, among others, a proprietary trading firm

trading for its own benefit using its own funds as well as a trustee investing or divesting VA holdings of a trust and holding legal title to the trust assets (including VAs) - would be exempted from licensing requirements under the proposed VA dealing regulatory regime.

Additionally, given the increasing popularity of decentralised, peer-to-peer ("P2P") VA trading platforms, we would also like to seek clarification as to the circumstances in which the operation of such P2P VA trading platform would fall within the proposed scope of "dealing in VAs".

While we note it is stated in footnote 20 of the VA Dealing Consultation Paper that this issue would need to be assessed on a case-by-case basis having regard to, amongst other things, the remuneration model, we are of the view that the critical questions in assessing whether a P2P VA trading platform would be caught within the ambit of the proposed VA dealing licensing regime (based on the proposed definition of "dealing in VAs") would include: (i) whether the platform operator plays any role in facilitating the sale and purchase of VAs between two users (for example, by acting as trading agent or intermediary in the transaction) beyond merely providing the technical infrastructure of the platform itself (including the automated matching engine); and (ii) whether any inducement (economic or otherwise) is provided by the platform operator to a user to trade with any other particular user, for example, by recommending or giving priority or preference to any particular potential counterparty otherwise than in accordance with the party-neutral set rules of the matching engine (such as a price-time priority algorithm).

However, general marketing incentives such as rebates or discount on fees upon reaching a certain trading volume, which are typical sales strategies that can be found in any industry (whether or not regulated), should not be regarded as inducement to trade amounting to dealing in VAs. Further guidance in this regard would be most beneficial to market players and relevant stakeholders.

Q2. Do you have any comments on the proposed scope of allowed activities?

We note that it is proposed in the VA Dealing Consultation Paper that the types of VAs that licensed VA dealers should make available for trading by their customers should be aligned with those applicable to virtual asset trading platform operators ("VATPs").

While we are in agreement that similar rules in this regard should apply to both licensed VATPs and VA dealers, we also believe the stringency on the admission or inclusion of VAs for trading by retail investors would mean that retail access to VAs would be extremely limited and may be restricted to Bitcoin (BTC), Ether (ETH) and a very small number of other tokens (if any at all). Such restrictiveness may not be conducive to the sustained and well-balanced growth of Hong Kong as a global VA hub and may also risk driving retail investors to unregulated overseas venues. We therefore suggest that the Government and the SFC should consider making appropriate adjustments to the rules and/or policy approach in relation to the approval of VAs for trading by retail investors for both licensed VATPs and VA dealers, including, amongst other things, the introduction of "passporting arrangements" to enable retail investors to gain access to certain eligible stablecoins issued by regulated entities outside Hong Kong (as

mentioned in the conclusions to the consultation on the stablecoin regulatory regime released in July 2024[1]).

Q3. If licensees or registrants providing VA dealing services are allowed to acquire or dispose of VAs for clients via non-SFC- licensed VATPs or liquidity providers, what are your comments on the safeguards that should be put in place?

We defer to those directly involved in the VA sector on this point.

Q4. If licensees or registrants providing VA dealing services are required to hold client VAs via regulated VA custodians, what are your comments on a commercially viable and AML- compliant operational flow to conduct VA dealing activities?

We defer to those directly involved in the VA sector on this point.

Q5. Do you think the regulatory requirements proposed suffice in addressing potential ML/TF risks and offering adequate investor protection?

We support the development of a regulatory framework that safeguards market integrity and investor protection, while maintaining a pragmatic balance between efficiency and necessity. To this end, we would caution against requirements that are overly-prescriptive and intrusive. Consideration should be given to the fact that what constitutes "necessary knowledge" and "adequate training" are subjective judgments, may differ from one business to another, and should be left to the licensee/ registrant to determine. Also, the licensee/registrant is already required to apply the same AML and customer protection standards as applicable to financial institutions under the remit of HKMA and SFC, so there is no need to add more, as that may confuse or duplicate.

Q6. Do you agree with the proposed transitional arrangement?

We assume that what the CP means by a "deeming arrangement" for pre-existing VA dealing service providers is that a preexisting VASP which meets the applicable regulatory requirements will be deemed to have a temporary licence to continue operating beyond the intial transitional period, pending final approval of the licence. In principle, we favour such an arrangement to avoid disruption to the activities of pre-existing VASPs. We would therefore welcome clarification of the reasons for the proposal not to provide such a deeming arrangement.

Given the extensive (and potentially costly) adjustments to the operational model that will need to be made by current market players engaged in VA dealing activities, we consider that transitional arrangements similar to those which were made available to pre-existing VATPs under that regime (including a non-contravention period and a deeming arrangement) should also be provided to pre-existing VA dealers. However, if the Government and the SFC are not minded to provide such transitional arrangements, at a minimum it will be helpful to market players if the detailed

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[1] *Legislative Proposal to Implement the Regulatory Regime for Stablecoin Issuers in Hong Kong – Consultation Conclusions*, July 2024, https://www.fstb.gov.hk/fsb/en/publication/consult/doc/Stablecoin_consultation_conclusion_e.pdf

guidelines setting out the regulatory requirements and expectations are issued and the licensing system is made open for applications well in advance of the commencement date of the proposed VA dealing regulatory regime.

Q7. Do you agree with the expedited licensing or registration arrangement?

We agree in principle that where regulated entities have already undergone the SFC's or HKMA's assessment process in relation to their provision of VA dealing services, and are already engaged in providing VA dealing services, an expedited approval process should be introduced for them. This seems to be an efficient and proportionate approach. We look forward to receiving further details of what the expedited process would be.

Q8. Based on the user-pays principle, do you have any comments on aligning the licensing application fee and annual fee for a licensee or registrant providing VA dealing services with those of Type 1 regulated activity under the SFO?

The CP states that the processing of a licence for VA dealing services is "expected to be similar" to a typical broker-dealer licence under the SFO. Assuming this means that the costs of processing will also be similar (licence fees should reflect costs), we agree with this proposal.

Q9. Do you agree that, for the purpose of protecting the investing public, persons not licensed by or registered with the SFC should not be allowed to actively market VA dealing services to the public of Hong Kong?

Yes. If VA dealing services are to require a licence or registration, and we agree with the proposal that they should, a corollary is that those providing these services should not be allowed to market such services in Hong Kong without a licence or registration.

Q10. Do you agree that the SFC and the HKMA should be provided with the proposed powers?

Regarding the proposal that the SFC/HKMA have the power to enter business premises to conduct "routine inspections", we presume that this would be based on the SFC's existing power under section 180 of the SFO, and hope that it would not be more intrusive, to avoid unnecessary disruption to business operations and privacy.

Moreover, we recommend that the SFC/HKMA state in guidelines that, as a matter of practice, and for the same reasons, they will only exercise the power to enter premises, and require businesses to provide information, where they have reasonable cause to suspect a contravention of a legal obligation. This would accord with the Competition Commission's practice under the Competition Ordinance. (Cap 619). (Indeed, that Ordinance itself states that such reasonable cause is required for an investigation, and the Commission only has the power to enter premises if it has first obtained a court warrant authorising it to do so).

Q11. Do you agree with the proposed sanctions, which are comparable to those under the existing regulatory regimes for VATPs?

We agree in principle that, in the interests of fairness, the maximum levels of penalties should be aligned on those applicable to VATPs. We have no view on whether these levels are appropriate (whether they are necessary or sufficient to achieve deterrence, i.e., too high or too low).

Q12. Do you agree that a review tribunal mechanism should be put in place to handle appeals against the decisions to be made by the SFC or the HKMA in implementing the licensing regime?

Yes. As the SFC said in a recent consultation paper, in proposing that the Securities and Futures Appeal Tribunal (SFAT) have jurisdiction to review a wider range of its decisions, such a body "provides an effective independent safeguard to ensure that regulatory decisions are reasonable, proportionate and fair and it brings transparency and independent guidance to the market."[2]

However, a number of questions arise from the (current) CP on which we would welcome clarity:

- Would the appeal result in a *full merits* review of the decisions of SFC/HKMA under the proposed new regime (as is the case with SFAT in respect of SFC decisions currently)? Or is a more limited form of review envisaged? We recommend the former, to provide the maximum independent safeguard.
- Would an existing body or bodies (such as SFAT) be used under the new regime, or is a new body envisaged? The former would seem to have the advantages of efficiency, as well as using existing experience and expertise.

[2] *Proposed Amendments to the Securities and Futures (Stock Market) Listing Rules*, 28 March 2025 paras 50-54, https://apps.sfc.hk/edistributionWeb/api/consultation/openFile?lang=EN&refNo=25CP3

Part 2: Responses to Consultation Questions of the Legislative Proposal to Regulate Virtual Asset Custodian Services

Q1. Do you have any comments on the proposed definition and scope (e.g. too narrow or too wide) of VA custodian services to be regulated?

The definition and scope seem *prima facie* reasonable, but we defer to those directly involved in the VA sector on this point.

Q2. For entities which do not safekeep private keys but arrange a third party to custody the client VAs or otherwise safekeep the private keys (such as a private fund trustee of a VA fund that delegates the safekeeping of private keys to a sub-custodian), should they be required to obtain a VA custodian service provider licence? Please explain your comments.

Yes. Entities which offer custodian services to customers but choose to sub-contract the services to a third party should still require a licence. It would be contrary to the policy objective of the new regime to allow such entities to fall out of it merely by sub-contracting.

However, given that different levels of risks are involved in the two scenarios (i.e. depending on whether the entity has actual custody of the VAs and private keys or outsources or delegates custody to another entity), we believe that different levels of stringency of the regulatory requirements should apply. For example, it may be appropriate for an entity that acts as a custodian of VAs, but delegates all the actual custody to another entity, to be subject to relatively less rigorous financial resources requirements and technical / cybersecurity requirements.

Q3. Are there any entities which should be licensed or registered for providing VA custodian services but are not caught by the proposed definition? Please explain your comments.

We defer to those directly involved in the VA sector on this point.

Q4. For an entity ("Entity A") within a corporate group that safekeeps private keys whereby personnel from different group entities ("Group Entities") may also be involved in safekeeping the private key and/or signing a VA transaction:

(i) Should the Group Entities be required or not be required to obtain VA custodian service provider licences? Please explain your comments.

No. The policy objective can be achieved by requiring only the parent company to have a licence, which could include requirements on it to ensure that its group entities comply with the licence obligations. Requiring each group entity to have a licence would seem to be inefficient and unnecessary.

(ii) If the answer to (i) is yes, please provide your comments on the types of personnel within the Group Entities which should obtain an individual licence ("Relevant Personnel"). What steps of the transactions should trigger this licensing requirement?

N/A.

(iii) If the answer to (i) is no, please provide your comments on whether the Relevant Personnel of the Group Entities should be required to be accredited to Entity A (assuming Entity A will obtain a VA custodian service provider licence) and also obtain an individual licence. Please explain your comments.

We propose that the individual licensing requirements do not exceed those already mandated by the SFC for intermediaries licensed under the SFO. This approach, grounded in the principle of necessity, will help avoid regulatory overreach that could potentially discourage business growth and innovation.

Q5. What are your comments on the proposed exemptions? Would there be other exemptions that are necessary?

We defer to those directly involved in the VA sector on this point.

Q6. Do you have any comments on the proposed scope of allowed activities?

We believe that, subject to compliance with the applicable AML/CTF requirements, licensed VA custodians should also be permitted to execute instructions of clients to make payments or transfers of VAs to other parties - for example, for the purpose of payment for goods and services and enabling P2P transactions in VAs. Based on our observations of the existing market landscape developments, such activities are becoming core functions for many existing VA custodians (such as providers of custodial VA wallets). To prohibit such activities or impose additional requirements for engaging such activities could have a detrimental impact on the viability of their business models and/or create unnecessary compliance hurdles.

Q7. Do you have any comments on the types of VAs that a VA custodian service provider should not provide custodian services for?

No comments.

Q8. Do you have any comments on the scope of individual licence and engagement as relevant individuals for providing VA custodian service?

Please see our answer to Q9 below.

Q9. Should individuals with authority to approve or sign VA transactions be required to obtain a licence or be engaged as relevant individuals? If yes, what steps of the transactions should trigger this requirement?

Please see our answer to Q4 (iii) above.

Q10. Do you think that licensed VA custodian service providers should be subject to the similar financial requirements as licensed corporations carrying on Type 13 regulated activity of providing depositary services for a relevant CIS? Do you think additional resources calibrated with scale of business or operations are required?

This question can only be answered with the benefit of practical experience, and we are not in a position to answer the question at this early stage. At the same time, we would caution against requirements that are overly-prescriptive and intrusive. For example, what constitutes "necessary knowledge" and "adequate training" are subjective judgments, may differ from one business to another, and should be left to the licensee/ registrant to determine. Also, the licensee/registrant is already required to apply the same AML and customer protection standards as applicable to financial institutions under the remit of HKMA and SFC, so there is no need to add more, as that may confuse or duplicate.

In terms of practical implementation, we also suggest that VA custodians that fully delegate the custody of VAs and private keys to other service providers (subject to compliance with any applicable rules and restrictions as to such delegation) should also be subject to relatively lower financial resources requirements in view of the relatively lower risks involved in their business models. Additionally, the Government and the SFC may consider adopting a tiered approach to allow more relaxed financial resources requirements where the value of VAs under custody does not exceed a certain threshold amount.

Q11. Should other regulatory requirements be added to mitigate the risks of VA custodian services?

Please see our answer to Q10 above.

Q12. What are your comments on the proposed transitional arrangement for the licensing regime for VA custodian service providers?

We assume that what the CP means by a "deeming arrangement" for pre-existing VA custodian service providers is that a preexisting VA custodian service providers which meets the applicable regulatory requirements will be deemed to have a temporary licence to continue operating beyond the initial transitional period, pending final approval of the licence. In principle, we favour such an arrangement to avoid disruption to the activities of pre-existing VA custodian service providers. We would therefore welcome clarification of the reasons for the proposal not to provide such a deeming arrangement.

Given the extensive (and expensive) adjustments to operational model that will need to be made by current VA custodians, we consider that transitional arrangements (including a non-contravention period and a deeming arrangement) should also be provided to pre-existing VA custodians. However, if the Government and the SFC are not minded to provide such transitional arrangements, at a minimum it will be helpful to market players if the detailed guidelines setting out the regulatory requirements and expectations are issued and the licensing system is made open for applications well in advance of the commencement date of the proposed VA custodian regulatory regime.

Q13. Based on the "user-pays" principle, do you have any comments on requiring higher licensing application fees and annual fees for a VA custodian service provider licensed by or registered with the SFC (such as requiring fees in the same amounts as those for Type 3 regulated activity under the SFO or other higher amounts)?

Assuming that the proposed fees reflect the costs incurred by the SFC in considering and processing a licensing /registration application, we have no objection to this proposal.

Q14. Do you agree that, for the purpose of protecting the investing public, persons not licensed by or registered with the SFC should not be allowed to actively market VA custodian services to the public of Hong Kong?

Yes. If VA custodian services are to require a licence or registration, and we agree with the proposal that they should, a corollary is that those providing these services should not be allowed to actively market VA custodian services to the Hong Kong public.

Q15. Do you agree that the SFC and the HKMA should be provided with the proposed powers?

Regarding the proposal that the SFC/HKMA have the power to enter business premises to conduct "routine inspections", we presume that this would be based on the SFC's existing power under section 180 of the SFO, and hope that it would not be more intrusive, to avoid unnecessary disruption to business operations and privacy.

Moreover, we recommend that the SFC/HKMA state in guidelines that, as a matter of practice, and for the same reasons, they will only exercise the power to enter premises, and require businesses to provide information, where they have reasonable cause to suspect a contravention of a legal obligation. . This would accord with the Competition Commission's practice under the Competition Ordinance. (Cap 619). (Indeed, that Ordinance itself states that such reasonable cause is required for an investigation, and the Commission only has the power to enter premises if it has first obtained a court warrant authorising it to do so).

Q16. Do you agree with the proposed sanctions, which are comparable to those under the existing regulatory regimes for VATPs?

We agree in principle that, in the interests of fairness, the maximum levels of penalties should be aligned on those applicable to VATPs. We have no view on whether these levels are appropriate (whether they are necessary or sufficient to achieve deterrence, i.e. too high or too low).

Q17. Do you agree that a review tribunal mechanism should be put in place to handle appeals against the decisions to be made by the SFC or the HKMA in implementing the licensing regime?

Yes. As the SFC said in a recent consultation paper, in proposing that the Securities and Futures Appeal Tribunal (SFAT) have jurisdiction to review a wider range of its decisions, such a body "provides an effective independent safeguard to ensure that

regulatory decisions are reasonable, proportionate and fair and it brings transparency and independent guidance to the market."[3]

However, a number of questions arise from the (current) CP on which we would welcome clarity:

- Would the appeal result in a *full merits* review of the decisions of SFC/HKMA under the proposed new regime (as is the case with SFAT in respect of SFC decisions currently)? Or is a more limited form of review envisaged? We recommend the former, to provide the maximum independent safeguard.
- Would an existing body or bodies (such as SFAT) be used under the new regime, or is a new body envisaged? The former would seem to have the advantages of maximising efficiency, as well as using existing experience and expertise.

HKGCC Secretariat
August 2025

[3] *Proposed Amendments to the Securities and Futures (Stock Market) Listing Rules*, 28 March 2025 paras 50-54.