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31 March 2023

Securities and Futures Commission
54/F, One Island East, 18 Westlands Road,
Quarry Bay Hong Kong
By email: VATP-consultation@sfc.hk

To the Securities and Futures Commission,

Consultation Paper on the Proposed Regulatory Requirements for Virtual Asset Trading Platform Operators licensed by the Securities and Futures Commission

I am pleased to respond to the questions raised in the Consultation Paper on the Proposed Regulatory Requirements for Virtual Asset (VA) Trading Platform Operators licensed by the Securities and Futures Commission (Consultation paper). I support and welcome the detailed guidance and the regulatory framework for licensed VA trading platform operators ("Licensed Platform Operators") to protect investors and the integrity of the VA market whilst promoting growth and technological innovation for the entire Financial Services and Virtual Asset Markets. We have seen many VA Platform Operators leave Hong Kong to domicile in Singapore, the US, Dubai etc. With a clear and a comprehensive licensing regime that is consistently followed, participants can expect to be licensed and the rules enforced. From these advancements, Hong Kong stands a very good chance of attracting many of these players back and to build an even more vibrant International Financial Services Market. The Consultation Paper is very well written, comprehensive and covers many new areas for Licensed Platform Operators to comply with. It is a clear road map for the Virtual Asset Industry to develop into a properly regulated and growth industry.

I have not responded to every question raised in the Consultation Paper as I am aware that a number of Industry associations and groups will be making submissions which I am in agreement with. I have focused on providing answers to a few key areas for the SFC to consider.

I would be pleased and welcome the opportunity to engage in further discussions with the SFC in relation to this Consultation Paper and to provide further industry input and comment as necessary.

- 1. Q1. Do you agree that licensed platform operators should be allowed to provide their services to retail investors, subject to the robust investor protection measures proposed? Please explain your views.**

I agree that Licensed Platform Operators should be allowed to provide services to retail investors subject to the robust investor protection measures proposed. If retail investors are not allowed to take part in the Virtual Asset Markets, it would force the retail investors who wanted exposure in Virtual Assets to trade through unlicensed/or overseas markets where the SFC will not have a regulatory reach and it would expose these investors to even more risks. Hong Kong has a vibrant retail trading population, and they should be allowed to trade new asset classes and products following the “same business, same risks, same rules principle”.

- 2. Q4. Do you have any comments on the proposal to allow a combination of third-party insurance and funds set aside by the licensed platform operator or a corporation within its same group of companies? Do you propose other options?**

I agree with the combination of third-party insurance and funds set aside by the Licensed Platform Operators as an interim solution. However, longer term work needs to occur to educate the insurance industry, the Insurance Authority and other participants in underwriting risk/and produce insurance products for licensed Virtual Asset Platforms. In my experience, in the event of an incident or loss by a Licensed or Unlicensed Trading Platform., due to the extreme difficulty of getting a compliant insurance policy, in the event an incident occurs (that would require the use of insurance), the licensed platform operator will, in all probability, not claim on the insurance. In addition to this proposal, I would suggest that discussions continue with the Insurance Authority, the Federation of Insurers, and the general insurance industry players to educate them about Virtual Assets and get them comfortable with potential insurance products that can be offered to Virtual Assets firms.

- 3. Q7. If licensed platform operators could provide trading services in VA derivatives, what type of business model would you propose to adopt? What type of VA derivatives would you propose to offer for trading? What types of investors would be targeted?**

We would welcome a licensing regime for the trading of Virtual Asset derivatives exchanges. It is important for a developed financial services market to have a mechanism by which holders of an asset may hedge and for risk management in addition to the trading of the main asset class. This is especially the case for Virtual

Assets. The SFC could consider licensing the derivatives markets as a Part 3 Automated Trading Service regulated markets – as a properly regulated exchange. Increasingly Institutional players are choosing stop trading through unregulated venues, and as such it would be important to have regulated derivatives markets and associated regulated clearing houses. I would envisage that as the markets develop further, this will be an area of growth as currently the most liquid derivatives markets are largely unregulated.

4. Q11. Other items

a. Coordination with the Insurance Authority and the Hong Kong Monetary Authority over Insurance and Banking Services

Increased coordination with the Insurance Authority (IA) and the Hong Kong Monetary Authority (HKMA) over Insurance and Banking Services would be very important for the Virtual Asset industry to further develop as an asset class and an industry. Currently, unlicensed and licensed Trading Platforms are unable to find or find it very difficult to purchase insurance as required by the SFC. Therefore, potential licensees can end up buying not fit for purpose or specie insurance that may not adequately cover (or not cover at all) the company in case of an incident. The availability of fit for purpose Insurance that is compliant with the SFC's requirements are very important. The same is true for bank accounts, banks are reluctant or in the past have not allowed for the opening of bank accounts for Trading Platforms. It would be very helpful if the SFC could work with both the Banking and Insurance Regulators as well as members of the banking and insurance industry to work out how banking services, accounts and insurance products can be made more accessible to Licensed Platform Operators. We have had discussions with various multinational insurance companies and part of the hurdle is for them to understand the virtual asset industry and be comfortable with the risks – the same is true for the Insurance Industry.

b. International Coordination

Whilst Hong Kong is an island, we are not the only country working on making Virtual Assets as a real and legitimate asset class. I would strongly suggest the SFC, HKMA, HKIA all engage their counterparts in the US, Europe, through international working groups to consider how best to cooperate in the areas of banking, insurance and the regulation of larger Virtual Asset Trading Platforms.

The Next Steps

I would be happy to provide any additional assistance or industry comment to the SFC. Should you have questions or require additional information, please do not hesitate to contact the undersigned at:

Yours Faithfully,