

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

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Date: 21 March 2023

Question 1: 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

Agree. Numerous retail investors in Hong Kong are interested in trading virtual assets but Hong Kong licensed platform operators can only serve professional investors. Recent studies have highlighted that a third of Hong Kong residents have invested in, or used cryptocurrency as a medium of exchange. Under the proposal for allowing retail access to licensed VA trading platforms, Hong Kong retail investors can choose to use the services offered by regulated platforms that provide comprehensive protection under the robust investor protection measures, allowing them to better manage their cryptocurrency holdings in a safer, more stable environment

Allowing licensed platform operators to provide services to retail investors will also contribute to the further development of the Hong Kong Economy. The global FinTech market (inclusive of virtual asset offerings) is expected to grow at a compound annual rate of 11.9 per cent between 2022 and 2027 to more than \$266.9 billion by 2027. As firms expand their offerings in Hong Kong, there will be roll-on economic benefits, such as job creation, among others, that will allow the Hong Kong Economy to capitalize on the growth of the market.

Question 2: Do you have any comments on the proposals regarding the general token admission criteria and specific token admission criteria?

Agree on applying these criteria for retail investors. Please confirm that tokens strictly for professional investors are not subject to the same admission criteria.

Question 3: What other requirements do you think should be implemented from an investor protection perspective if the SFC is minded to allow retail access to licensed VA trading platforms?

No comments

Question 4: 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?

In terms of “funds of the licensed platform operator or a corporation within the same group of companies as the licensed platform operator which are set aside on trust”, we propose that the funds could include both fiat money (i.e. Hong Kong dollars) and “eligible large-cap virtual assets” as defined in the consultation.

In respect of the intent for a platform operator to engage in daily monitoring of the total value of client virtual assets under its custody, we propose that this requirement be modified to a weekly time standard. Given the fluctuations inherent in the virtual asset class, a daily monitoring requirement may risk licensed platform operators being in breach of the relevant compensation requirements due to daily market fluctuations.

Question 5: Do you have any suggestions as to how funds should be set aside by the licensed platform operators (for instance, under the house account of the licensed platform operator or under an escrow arrangement)? Please explain in detail the proposed arrangement and how it may provide the same level of comfort as third-party insurance.

We propose to adopt the existing treatments. The licensed platform operators could maintain fiat funds with their house bank account and virtual-asset funds with their associated entities, which are licensed trust or company service providers in Hong Kong, under trust service.

In the event of force majeure, such funds/virtual assets held under the trust will be able to clearly attributable to investors and subject to the relevant obligations and protections of the trust arrangement. This will allow for quicker resolution and avoid long-drawn processes inherent in third-party insurance claims.

Question 6: Do you have any suggestions for technical solutions which could effectively mitigate risks associated with the custody of client virtual assets, particularly in hot storage?

No comments

Question 7: 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?

Since only “eligible large-cap virtual assets” are allowable, we propose VATPs to provide trading services in simple derivative products- VA Futures and their funds. All their investors should comply with the required assessments including investment suitability and complex product.

Under the proposal for allowing retail access to licensed VA trading platforms, these VA derivatives should be SFC-authorized products. Otherwise, the VA derivatives should only allow professional investors to invest.

Question 8: Do you have any comments on how to enhance the other requirements in the VATP Terms and Conditions when they are incorporated into the VATP Guidelines?

No comments

Question 9: Do you have any comments on the requirements for virtual asset transfers or any other requirements in Chapter 12 of the AML Guideline for LCs and SFC-licensed VASPs? Please explain your views.

(1) Sunrise issue: FATF is still solving the ‘sunrise issue’. Unobligated entities in overseas countries are not obligated to transfer their client information to the VATPs in Hong Kong. Will SFC intend to implement the FATF-proposed solutions for this issue?

(2) Counterparty Due Diligence: The SFC may consider specifying two levels (i.e. “firmwide” level and “branch level”) of the counterparty due diligence. Will SFC provide further guidelines on the two levels of due diligence including their methodologies, factors, and criteria?

(3) Technical problem of data transfer: At this stage, the data transfer can be executed when both counterparties are engaged with the same vendor which transfers the required data between them.

Also, does SFC consider whitelisting the vendors for VATPs reference?

**Question 10: Do you have any comments on the Disciplinary Fining Guidelines?
Please explain your views.**

No comments

Others:

In terms of the licensed activities of virtual assets under the framework of Joint Circular dated 28 Jan 22¹, will SFC consider allowing the licensed intermediaries to provide their virtual asset-related services for retail clients? If yes, any plans can be disclosed?

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<https://apps.sfc.hk/edistributionWeb/gateway/EN/circular/intermediaries/supervision/doc?refNo=22EC10>