

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.

Response:

Yes, I agree that Hong Kong retail investors should have access to trading services provided by licensed VA trading platform operators, otherwise retail investors will have no choice but trade on unregulated VA trading platforms overseas.

Question 2:

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

Response:

As eligible large-cap virtual assets are available for retail investors, it may be problematic if each licensed platform operator has sole discretion on picking indices and large-cap VAs. Therefore, with regard to specific token admission criteria, I suggest SFC to publish on its official website a “List of Acceptable Indices” or a “List of Eligible Large-cap Virtual Assets”. For avoidance of doubt, licensed platform operators shall still be ultimately liable for admission of VAs.

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?

Response:

It is noted that under proposed regulatory requirements, the licensed platform operator should obtain and submit to the SFC written legal advice in the form of a legal opinion or memorandum confirming that the virtual asset to be admitted for trading does not fall within the definition of “securities” under the SFO, except for virtual assets only made available to professional investors.

Without binding Court of Final Appeal cases or clear legislation, it is difficult for Hong Kong legal counsels to advise whether a virtual asset is “securities” under SFO. In addition, under the proposed dual licensing regime, I think there is no necessity to determine a VA is “securities” or not, as long as such VA is an eligible large-cap virtual asset which is available for retail customers.

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?

Response:

I agree that setting aside sufficient money on trust for the purpose of dollar-for-dollar compensation of clients' assets is a good alternative to third party insurance policy. However, such arrangement will be very burdensome for licensed platform operators for several reasons including:

- (1) licensed platform operators may lack of professional knowledge on how to manage an insurance policy/compensation scheme;
- (2) as many virtual assets are highly speculative and volatile, it is difficult to value client's lost; and
- (3) the higher trading volume is, the more money should the platform operator set aside, which potentially weakens the financial stability of the platform itself.

Question 5:

Do you have any suggestions as to how funds should be set aside by the licensed platform operators (for instance, under 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.

Response:

I don't have any suggestion on this issue.

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?

Response:

I don't have any suggestion on this issue.

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?

Response:

I don't have any suggestion on this issue.

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?

Response:

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.

Response:

No comments.

Question 10:

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

Response:

No comments.