

# **Legislative Proposal to Implement the Regulatory Regime for Stablecoin Issuers in Hong Kong**

## **Consultation Conclusions**

Financial Services and the Treasury Bureau

Hong Kong Monetary Authority

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## Introduction

1. The Financial Services and the Treasury Bureau (“FSTB”) and the Hong Kong Monetary Authority (“HKMA”) jointly issued a consultation paper on 27 December 2023 on the proposed regulatory regime for stablecoin issuers in Hong Kong (“Consultation Paper”)<sup>1</sup>.
2. The two-month consultation period ended on 29 February 2024. A total of 108 submissions were received from a wide variety of respondents comprising market participants, industry associations, business and professional organisations, individuals, etc. We would like to take this opportunity to thank all the respondents for their comments. The names of the respondents are listed in the **Annex**. The FSTB and the HKMA have also been actively engaging in discussions with the industry as well as other relevant stakeholders to keep abreast of market developments, with a view to ensuring that the regulatory regime is fit-for-purpose.
3. Comments received indicated that there is overall support for the policy objectives and the key proposals. The majority of respondents agreed that a well-regulated environment is a prerequisite for sustainable and responsible development of the stablecoin ecosystem in Hong Kong. Taking into account the feedback received, international discussions as well as the latest market developments, the FSTB and the HKMA will take forward the legislative proposal to implement a regulatory regime for issuers of fiat-referenced stablecoin (“FRS”) in Hong Kong.
4. Respondents provided constructive feedback on the proposed regulatory requirements for FRS issuers, while some also sought further clarification. We have carefully considered the comments received and incorporated them as appropriate. This consultation conclusions paper (“Conclusions Paper”) summarises the key feedback received as well as our responses, and should be read together with the Consultation Paper.

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<sup>1</sup> See [“Consultation paper on legislative proposal to implement the regulatory regime for stablecoin issuers in Hong Kong”](#) published on 27 December 2023.

## Key comments received and the FSTB's and the HKMA's responses

### 1. Scope and Coverage

***Consultation questions:***

- Q1.* Do you agree with the proposed definition of “stablecoin” and “fiat-referenced stablecoin” (“FRS”)?
- Q2.* Do you have any comments in relation to the scope of regulated stablecoin activity?

#### *Definition of stablecoin*

- 1.1. There was general agreement with the proposed definition of stablecoin<sup>2</sup>. Several respondents questioned whether the proposed definition would cover stablecoins issued on distributed ledgers that are controlled by multiple parties acting in a concerted manner (e.g. consortium blockchain). Some respondents noted that such a definition would not cover stablecoins operating on digital ledger(s) that are controlled by a single party (e.g. private blockchain run by a single party).
- 1.2. There was broad consensus on the proposed exclusion of certain financial instruments (e.g. deposits, securities and futures contracts, float stored in stored value facilities (“SVF”) and SVF deposits), digital representations of fiat currencies issued by or on behalf of central banks and certain digital representations of value that have a limited purpose from the definition of stablecoin, noting the fundamental differences between stablecoins and those excluded items.

#### Response

- 1.3. Taking into account international development, the proposed regulatory regime intends to primarily focus on representations of value which rest on ledgers that are operated in a decentralised manner.

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<sup>2</sup> See paragraph 4.1 of the Consultation Paper.

- 1.4. As such and for clarity, we will amend limb (d) of the proposed definition to specify that the stablecoins subject to the proposed regulatory regime are those “operated on a decentralised distributed ledger or similar technology”, whereby a “decentralised distributed ledger” refers to a distributed ledger in which no person has the unilateral authority to control or materially alter its functionality or operation.

#### *Definition of FRS*

- 1.5. Some respondents responded that FRS referencing a single currency and FRS referencing multiple currencies should be regulated differently under the regulatory framework, of which a few further suggested placing the emphasis on single-currency FRS given the lack of popularity and higher complexity of the operation of the latter. A few respondents commented that the regulatory regime should focus on FRS that references one or more currencies where there is an abundant supply of high-quality and highly liquid assets denominated in that or those currencies. A small number of respondents commented that stablecoins that reference assets other than fiat currencies, for example physical commodities and precious metals, should also be regulated.

#### Response

- 1.6. We are of the view that both FRS referencing a single currency and FRS referencing multiple currencies may potentially pose financial stability risks due to their interconnections with the traditional financial system. This is the view shared by key financial markets and financial regulators internationally. As such, it is considered necessary to include all types of FRS in the proposed scope of the regulatory regime. In relation to multi-currency-referenced stablecoins, we will put in place requirements proportionate to the complexity of FRS issuers’ operations to ensure that the associated risks are adequately addressed. For instance, such FRS issuers will need to demonstrate that they are able to properly manage reserve assets denominated in multiple currencies, having regard to the availability of high-quality and highly liquid assets denominated in those currencies. We do not intend to prescribe the scope of reference currencies of FRS under the regulatory regime.

- 1.7. We will retain the proposal of regulating FRS, noting that FRS, as compared to other types of stablecoins (e.g. commodity-linked or precious metal-linked stablecoins), is considered as having greater potential to be developed as a commonly acceptable means of payment and hence poses higher and more imminent monetary and financial stability risks.
- 1.8. Nevertheless, we also intend to provide flexibility for the authorities to expand the scope of stablecoins under regulation in light of the nascent nature of virtual assets (“VAs”) and the fast-evolving market landscape. We will closely monitor market developments and adjust the regulatory remit as and when necessary (see section 5).

#### *Scope of regulated activity*

- 1.9. We proposed in the Consultation Paper that the regulatory regime would prioritise regulation of FRS issuance activity. A significant majority of respondents agreed with such approach, considering that FRS has a higher potential to be used as a commonly acceptable means of payment, as compared with other types of VAs. Respondents also generally agreed that a regulatory regime focusing on the issuance of FRS would be able to address financial stability risks and enhance protection for FRS users. Meanwhile, some respondents sought clarification as to what would constitute the activity of “issuance”.
- 1.10. Certain respondents believed that other activities associated with stablecoins (e.g. management and custody of reserve assets) as well as other non-stablecoin-specific activities (e.g. storage of private keys and provision of wallet services) should also be covered by the regulatory regime.

#### Response

- 1.11. The question of what would qualify as an “issuance” activity is generally a matter to be decided on a case-by-case basis with respect to specific facts and circumstances. We acknowledge the need for clarity and will provide further guidance to the industry through issuing guidelines upon the implementation of the licensing regime.
- 1.12. We are of the view that licensed FRS issuers should be responsible for maintaining a robust stabilisation mechanism for the FRS they issue. Proper management and custody of reserve assets would be

key to achieving this outcome. The HKMA will review how reserve assets will be or are proposed to be managed, as part of the licence application assessment process. We do not currently see a need to introduce a separate licensing regime for such activities.

- 1.13. We acknowledge the importance of the storage of private keys and the provision of wallet services in terms of risk management and user protection under various use cases. The Government and the financial regulators are exploring the regulatory approach for these activities, and will engage the public and relevant stakeholders in the process.

## 2. Legislative Approach

### *Consultation questions:*

*Q3.* Do you agree with the proposed approach of introducing a new piece of legislation to implement the regulatory regime for FRS issuers, and potentially cover the regulatory regime for other VA activities as appropriate in the future?

*Q4.* Do you agree with the proposed exclusion of issuance of FRS from certain regulatory regimes, such as those for securities and SVFs to avoid subjecting FRS issuer to multiple regulatory regimes?

- 2.1. Noting that the area of stablecoins is rather nascent, the vast majority of respondents agreed with our rationale and the proposal of enacting a new piece of legislation to implement the regulatory regime for FRS issuers as well as excluding FRS issuance from the securities and SVF regulatory regimes<sup>3</sup>.
- 2.2. A few respondents pointed out the need for the HKMA to coordinate with the Securities and Futures Commission (“SFC”) on the scope of supervision and enforcement so as to address possible regulatory overlap or gaps between the proposed regulatory regime for stablecoin issuers and the virtual asset service provider (“VASP”) licensing regime in Hong Kong.

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<sup>3</sup> See paragraph 2.4 of the Consultation Paper.

## Response

- 2.3. We intend to take forward the proposed legislative approach to implement the regulatory regime for FRS issuers. The HKMA will continue to work with the other regulators, with a view to maintaining a coherent VA regulatory framework in Hong Kong thereby avoiding regulatory arbitrage.

### **3. Regulatory Framework for FRS Issuers**

#### *Consultation questions:*

- Q5.* Do you have any comments on the proposed licensing regime for FRS issuers?
- Q6.* Do you have any comments on the proposed licensing criteria and conditions?
- Q7.* Do you have any comments on the proposed power given to the Monetary Authority (“MA”) to impose additional licensing conditions?

#### **3.1. Licensing Regime for FRS issuers**

- 3.1.1. Most respondents agreed with the proposed scope of the regulatory regime to cover FRS issuance. However, some respondents sought clarity around the concept of “actively market its issuance of FRS to the public of Hong Kong”<sup>4</sup>. Specifically, some respondents enquired about the meaning of “actively market” and sought guidance on whether this was meant to catch unlicensed FRS issuers who actively market their own issuance but not agents or intermediaries engaged by these issuers. A few respondents questioned whether only advertisements exclusively targeted at the public of Hong Kong would be captured. Several respondents commented on the potential extraterritorial scope of the proposed regime (e.g. covering overseas entities issuing Hong Kong dollar (“HKD”)-referenced stablecoins).

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<sup>4</sup> See paragraph 6.1.1 of the Consultation Paper.



- 3.1.2. A small number of respondents asked whether companies incorporated in Hong Kong but issuing FRS outside of Hong Kong would be regulated.

Response

- 3.1.3. The HKMA will take into account multiple factors in determining whether a person is “actively marketing” an issuance of FRS to Hong Kong public. Referencing a similar approach adopted by the SFC<sup>5</sup>, such factors would include, but not be limited to, the language used in the marketing messages, whether the message is targeted at a group of people that resides in Hong Kong and whether a Hong Kong domain name is used for its website.
- 3.1.4. With a view to protecting FRS users, it is our policy intention that any person (including issuers, agents and intermediaries) promoting unlicensed FRS issuance would commit an offence. Agents or intermediaries actively marketing a licensed entity’s FRS issuance, generally speaking, will not be considered as issuing FRS themselves and thus do not require a stablecoin issuer licence.
- 3.1.5. Since FRS issuers of HKD-referenced stablecoins would likely target, among others, members of the Hong Kong public, and such FRS issuance could have financial and monetary stability implications for Hong Kong, it is considered necessary to bring such activity, even if carried on outside of Hong Kong, within the MA’s regulatory perimeter. We will maintain close dialogue with other regulators to foster efficient communication and information sharing.
- 3.1.6. Under the proposed regulatory regime, any person who issues FRS in Hong Kong will be required to obtain a licence from the MA. Determining whether an FRS is issued in Hong Kong will depend on the facts and circumstances of each case. We will consider factors such as the FRS issuer’s place of incorporation, the location of its operations, provision of subsequent customer service to FRS users, and whether Hong Kong bank account is used to process issuance and redemption requests. We will provide further guidelines on this matter.

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<sup>5</sup> See [SFC’s FAQ on “Actively markets” under section 115 of the Securities and Futures Ordinance \(Cap. 571\) and section 53ZRB of the Anti-Money Laundering and Counter-Terrorist Financing Ordinance \(Cap. 615\)](#) on the SFC’s website.

## **3.2. Licensing Criteria and Conditions**

(a) *Management of reserves and stabilisation mechanism*

(i) *Full backing*

3.2.1. The majority of respondents were supportive of the requirement that FRS in circulation should be fully backed by reserve assets at all times, as this is the foundational element underpinning the stabilisation mechanism of stablecoins. Certain respondents expressed concerns about the need to maintain full backing at all times, citing the potential difficulties in conducting real-time reconciliation and significant efforts needed for FRS issuers to top up the pool of reserve assets from time to time to make sure that the market value of reserve assets is at least equal to the amount of FRS in circulation.

3.2.2. On the other hand, a few respondents suggested that the level of asset backing should be set by the HKMA at a level greater than the amount of FRS in circulation, to ensure that any decrease in marked-to-market value of reserve assets would be instantly absorbed so that the full backing requirement would be met at all times. This measure would also relieve FRS issuers from the burden of having to continuously top up any shortfall.

### Response

3.2.3. Since insufficient reserve assets could result in FRS users being unable to redeem all of their FRS for fiat currencies at par value, potentially leading to a run on those FRS thereby affecting confidence in the ecosystem, we maintain that the amount of FRS issued must always be fully backed by reserve assets at any given point in time. Licensed FRS issuer will be required to demonstrate to the MA's satisfaction that it has put in place measures (e.g. over-collateralisation) to comply with such requirement.

(ii) *Investment limitations*

3.2.4. Respondents generally supported the proposed requirement for reserve assets to be of high quality and high liquidity, with minimal market, credit and concentration risks.

- 3.2.5. There were calls for detailed guidance on the composition of reserve assets, for instance, the types and maturity of investment instruments that would be permitted or prohibited and the minimum proportion of cash to be held to cater for daily redemption requests. Several respondents cited the reserve asset composition requirements of other jurisdictions and sought clarity on whether short-term government bonds, short-term cash deposits, certificates of deposit, commercial paper, highly rated corporate bonds and money market funds would be allowed in an FRS issuer's portfolio of reserve assets.
- 3.2.6. A number of respondents suggested allowing certain digital assets (e.g. tokenised deposits) to be qualified as reserve assets.
- 3.2.7. As for the reserve assets being held in the same currency as the denomination of the FRS, some respondents asked about the flexibility of holding US dollar ("USD") denominated reserves when issuing HKD-referenced stablecoins.

#### Response

- 3.2.8. The HKMA recognises that different FRS issuers, with their focus on different use cases, may have different liquidity needs and thus require different approaches to the management of their reserve assets. The HKMA will adopt a risk-based regulatory approach and require FRS issuers to demonstrate how their investment policies for their reserve assets, as well as their liquidity management policies, are commensurate with the size and complexity of their businesses so that they could meet redemption requests in normal situations and in times of stress.
- 3.2.9. For the scope of reserve assets, we will take into account factors including the need for managing liquidity and market risks, operational needs of FRS issuers, and the classification of high-quality liquid assets in banking regulations, as well as other applicable international standards. In general, high quality and high liquidity reserve assets may include (a) coins and banknotes, (b) deposits placed with licensed banks, (c) marketable securities representing claims on or guaranteed by governments, central banks or qualified international organisations with high credit quality, (d) overnight reverse repurchase agreements with minimal counterparty risk backed by these securities and (e) tokenised versions of the above assets. While FRS issuers remain ultimately responsible for the management of risks associated with reserve management, they should discuss

their investment policies with the HKMA, and the proposal of other investment instruments will be considered on a case-by-case basis having regard to factors such as the availability and liquidity of such assets and the ability to liquidate them within a short timeframe.

- 3.2.10. Reserve assets should be held in the same currency as that referenced by the FRS and FRS issuers need to obtain prior approval of the MA for currency mismatch between the FRS' referenced currency and its reserve assets. In such cases, the MA may impose additional requirements, such as over-collateralisation, to mitigate the associated foreign exchange risks as appropriate. Specifically, for HKD-referenced stablecoins, the MA intends to allow FRS issuers the flexibility to include USD-denominated reserve assets.

*(iii) Segregation and safekeeping of reserve assets*

- 3.2.11. Respondents largely agreed with the requirement of segregation and safekeeping of reserve assets, with some seeking details on the requirements regarding asset custodians, such as whether the custodian would have to be located in Hong Kong or whether having a limited nexus in Hong Kong would be acceptable. Some respondents also questioned whether placing a certain portion of reserve assets in other jurisdictions would be allowed.

- 3.2.12. Multiple respondents requested clarity on the meaning of “effective trust arrangement”. In particular, they asked about the evaluation criteria to assess effectiveness, required documents to substantiate such effectiveness and whether declarations of trust would be acceptable.

Response

- 3.2.13. As illustrated by market events both in and outside of Hong Kong, it is considered that safekeeping reserve assets with licensed banks in Hong Kong could provide greater user protection in case of business disruptions or failures. The HKMA is open to considering proposals from licensed FRS issuers on placing the reserve assets in other jurisdictions on a case-by-case basis, provided that they could demonstrate the need for having this alternative arrangement, that additional risks are duly addressed, and that the FRS users' interests are not compromised.

3.2.14. Segregating reserve assets from the FRS issuer's own assets and putting in place an effective trust arrangement could help protect FRS users in the event of the FRS issuer's failure, by providing them with legal rights and priority claims on the reserve assets. In this regard, the appointment of independent trustee or a declaration of trust over the reserve assets would be considered as an acceptable trust arrangement. Prior to any implementation, we would expect an FRS issuer to submit a draft of the relevant trust deed together with a draft of an independent legal opinion for the HKMA's review.

3.2.15. We would like to emphasise that notwithstanding any appointment of custodians, FRS issuers would remain responsible for the proper management and safekeeping of the reserve assets, as well as for compliance with regulatory requirements.

(iv) *Risk management and controls*

3.2.16. The vast majority of respondents agreed with the regulatory requirements proposed in the Consultation Paper with regard to risk management and controls.

#### Response

3.2.17. We will require FRS issuers to formulate a reserve management policy that is adequate, appropriate and proportionate in tackling both financial and operational risks in the course of managing their reserves.

(v) *Disclosure and reporting*

3.2.18. Many respondents agreed with the need for transparent and frequent disclosure of reserve assets to ensure FRS users' confidence. However, multiple respondents expressed concerns about the cost implications associated with monthly attestation by an independent auditor. Some respondents suggested replacing such requirement with monthly self-attestation supplemented with quarterly attestation by an independent auditor.

3.2.19. A few respondents also suggested that the HKMA calibrate the disclosure requirements based on FRS circulation size so that FRS issuers with a bigger scale of issuance would be subject to more stringent disclosure requirements.

## Response

3.2.20. We consider that comprehensive and transparent disclosure, alongside verification by an independent trusted third-party, is key to providing assurance that the FRS in circulation is fully backed by reserve assets, irrespective of the circulation size. Subject to further discussion with relevant stakeholders (such as market participants and service providers) in the course of finalising the detailed guidelines, the HKMA intends to proceed with the proposed requirement of monthly attestation on reserve assets conducted by a qualified and independent auditor, so as to instil public confidence.

3.2.21. Following consideration of the views shared by the respondents and industry feedback, the HKMA is inclined to reduce the frequency of public disclosure regarding FRS in circulation as well as the market value and composition of reserve assets, striking a balance between the operational burden on FRS issuers and the need for transparency and having regard to international developments in this respect. The HKMA will further engage the industry and the public as it develops more detailed disclosure requirements.

### *(vi) Prohibition on paying interest*

3.2.22. There was broad consensus that FRS issuers should not pay interest to FRS users in line with the approach adopted by other major jurisdictions. Several respondents queried whether the offering of marketing incentives would be allowed. Some also enquired about the difference between payment of interest and offering of marketing incentives.

## Response

3.2.23. For the avoidance of doubt, the offering of marketing incentives would not be prohibited. However, FRS issuers would not be allowed to make arrangements with third parties to provide interest to FRS users. As for the difference between paying interest and marketing incentives, interest payment can generally be considered as the distribution of any profit, income or other returns that are proportionate to the length of period during which a user holds the FRS, and/or the size of FRS held by an FRS user. FRS issuers who wish to offer marketing incentives should ensure that their promotional activities do not amount to payment of interest.

(b) *Redemption requirements*

- 3.2.24. While most respondents agreed with the requirement that redemptions should be made on a timely basis, several respondents called for clarity on the meaning of “timely” for processing redemption requests. A few respondents suggested that measures should be in place to cater for stress scenarios, such as allowing FRS issuers to suspend redemption in emergency situations.

Response

- 3.2.25. The HKMA will require FRS issuers to fulfil redemption requests within one business day in normal circumstances after the day on which a redemption request is received. In determining the appropriate timeframe for meeting redemption requests, we have taken into account the time needed to liquidate investment instruments under normal and stressed market conditions while ensuring protection of FRS users. FRS issuers should seek the MA’s prior approval if they foresee any difficulty in fulfilling redemption requests within one business day (e.g. unforeseen market stress scenario). The HKMA reiterates that redemption should be fulfilled at par value in the referenced currency/currencies at all times and these requests should be processed without undue costs or unreasonable conditions.

(c) *Restrictions on business activities*

- 3.2.26. On the scope of business activities allowed for FRS issuers, the majority of respondents expressed support for the proposal of allowing FRS issuers to conduct business activities that are ancillary or incidental to their issuance of FRS. Some respondents sought clarification on which specific activities would be considered ancillary.
- 3.2.27. Several respondents suggested that the HKMA should, subject to certain conditions or limits, allow FRS issuers to conduct certain other activities (e.g. lending or financial intermediation services) for their provision of comprehensive services to FRS users.

## Response

3.2.28. As mentioned in the Consultation Paper, ancillary activities may include the provision of wallet services for the FRS issued by the FRS issuer itself in order to facilitate the issuance and redemption processes. We consider that the provision of lending or financial intermediation activities would expose an FRS issuer to significant risks and divert its resources from the issuance of FRS. Accordingly, these activities should not be undertaken by FRS issuers. The MA would assess other proposed business activities on a case-by-case basis, taking into account the associated risks and effectiveness of mitigating measures.

### *(d) Physical presence in Hong Kong*

3.2.29. The majority of respondents acknowledged the need for having a requirement regarding the location of the FRS issuing entity and key personnel for the HKMA to maintain effective regulatory oversight. That said, some of them expressed concerns on the potential burden for global issuers, who would need to allocate resources for local incorporation and establishment of a management team in Hong Kong. In light of this, some suggested that the HKMA consider a more flexible approach by allowing companies incorporated outside Hong Kong but with a local registered office and adequate presence of personnel in Hong Kong to apply for a licence.

## Response

3.2.30. The consideration behind the requirement of local incorporation is to enable the MA to regulate FRS issuers effectively. Moreover, from the perspective of affording protection to FRS users, it is recognised that challenges may arise in the event of insolvency of companies incorporated outside Hong Kong. Therefore, we propose to keep local incorporation as one of the licensing criteria. Non-Hong Kong incorporated companies, other than authorized institutions (“AIs”) incorporated outside Hong Kong, intending to apply for a licence will be required to establish a subsidiary in Hong Kong.

3.2.31. We also consider that the presence of key management personnel in Hong Kong, including chief executive and alternative chief executive, is essential for ensuring an FRS issuer’s effective management of its FRS operations. This requirement aligns with the regulatory regimes for AIs and SVF licensees, which are administered by the MA.



(e) *Financial resources requirements*

- 3.2.32. In the Consultation Paper, we proposed a requirement that the minimum paid-up share capital should be the greater of 2% of the total FRS in circulation and HKD25 million. Several respondents highlighted the difficulty in maintaining sufficient capital with respect to FRS circulation size in a timely manner, and the implications for having the necessary stand-by capital. A few respondents stated that the potential additional risks arising from the increase in FRS circulation could be mitigated by risk management measures, rather than a blanket 2% capital requirement.

Response

- 3.2.33. Issuers are required to have sufficient financial resources to properly address the relevant market risk, operational risk, technology risk and other risks arising from its business operations. We recognise that the risk level of FRS issuance activity is a function of multiple factors, including but not limited to the scale of operation, governance framework and internal controls. The risks associated with increase in scale may be partly addressed by enhancement of the overall risk management framework and controls. Having taken into consideration the responses, we will impose a minimum paid-up share capital requirement of HKD25 million or 1% of the par value of FRS in circulation, whichever is higher. That being said, the MA will retain flexibility and power to impose additional paid-up share capital requirements as licensing conditions where necessary.

(f) *Disclosure requirements*

- 3.2.34. There was broad support for requiring FRS issuers to provide FRS users with transparent information and appropriate disclosure. A few respondents sought clarification regarding the requirement for publishing a white paper, including timing of issuance, content, dissemination method, and whether it has to be approved by the MA before publication.

Response

- 3.2.35. The white paper for a prospective FRS should be ready when the licence application is submitted to the MA. FRS issuers will be required to notify the MA before publication.

3.2.36. A white paper should include, among others, general information about the FRS issuer, and disclosures regarding risks associated with using the FRS, the technology employed, the mechanism and procedures for issuance, distribution and redemption, rights of potential FRS users, and also applicable conditions and fees for redemption.

3.2.37. As for the dissemination method, an FRS issuer should publish its white paper on its website, such that it can be easily accessed by the public, including FRS users.

(g) *Governance, knowledge and experience*

3.2.38. The majority of respondents agreed that the senior management of an FRS issuer must possess a sufficient level of knowledge and experience to effectively fulfil their duties. In view of the fast-evolving development of the VA sector, some respondents enquired about the criteria and the required experiences for assessing the fitness and propriety of senior management personnel.

#### Response

3.2.39. In considering the fitness and propriety of the senior management, we will review each application in a holistic manner, having regard to relevant considerations including the applicant's experience of overseeing other financial activities in a similar capacity, the applicant's financial status and solvency, and the applicant's educational qualifications.

(h) *Risk management requirements*

3.2.40. Respondents were supportive of requiring FRS issuers to have in place appropriate risk management processes and measures for their operations. Several respondents expressed concern regarding the potential cost implications of conducting an annual risk assessment on an FRS issuer's internal controls, risk management and governance processes. A few respondents suggested that the frequency of risk assessment should be determined based on the size of business and the associated risks. We have also received feedback suggesting that incident management should be included as part of an FRS issuer's risk management framework.

## Response

3.2.41. We consider that an annual risk assessment would help FRS issuers to identify weaknesses that may undermine the effectiveness of their internal controls, risk management and governance, and accordingly would help to address potential vulnerabilities or inadequacies. Therefore, FRS issuers should carry out risk assessments on at least an annual basis, irrespective of their size of business or risk level of FRS operations.

3.2.42. Incident management should include, but not be limited to, the establishment of incident management policies, monitoring mechanisms and incident response plans for FRS issuers' timely recovery actions and reporting to the MA.

(i) *Audit requirements*

3.2.43. A few respondents sought clarification regarding the qualification of auditors and the scope of the audit with respect to areas such as cybersecurity and smart contracts.

## Response

3.2.44. In appointing an auditor, FRS issuers should take into account a set of criteria, which include, among others, an auditor's knowledge, expertise, resources and independence in conducting audit or review for relevant areas. We will provide further guidance on the scope of audit in guidelines.

(j) *Anti-money laundering and counter-financing of terrorism ("AML/CFT") requirements*

3.2.45. Respondents sought further details on the systems of control for addressing money laundering and terrorist financing risks, as well as FRS issuers' responsibilities in transaction monitoring and compliance with the travel rule.

## Response

3.2.46. FRS issuers should adopt a risk-based approach and take appropriate measures to mitigate and manage money laundering and terrorist financing risks that arise from the operation of FRS issuance, including any interaction with intermediaries within the ecosystem.

Similar to other regimes administered by the MA, a separate guideline will be issued setting out the regulatory AML/CFT requirements which will be consistent with international standards set by the Financial Action Task Force, including as relate to transaction monitoring and compliance with the travel rule. We will take into account the feedback received from industry players through ongoing engagements as well as the participants in the Stablecoin Issuer Sandbox (“Sandbox”) when formulating these requirements<sup>6</sup>.

(k) *Complaints handling*

3.2.47. A number of respondents suggested that FRS issuers should be required to have effective complaints handling and redress mechanisms in place to enhance protection of FRS users.

Response

3.2.48. We agree that complaints handling and redress mechanisms would help improve service quality as well as user experience. FRS issuers should provide FRS users access to complaints handling and dispute resolution mechanisms that are accessible, affordable, independent, fair, accountable, timely and efficient.

(l) *Purpose and soundness of issuance*

3.2.49. Throughout our ongoing communication with market participants and initial discussions with Sandbox applicants, we note that viable and proper use cases are crucial to the sustainability of operations of FRS issuers. As such, we consider it appropriate to take into account the use cases and business plans of prospective FRS issuers when reviewing their licence applications.

**3.3. Other Licensing Matters**

(a) *Eligibility for a licence*

3.3.1. Several respondents emphasised the importance of ensuring a level playing field among different market players. A number of them suggested that AIs should be required to establish a separate entity if they apply for an FRS issuance licence.

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<sup>6</sup> See “[Stablecoin Issuer Sandbox](#)” published on 12 March 2024.

## Response

3.3.2. We would like to reiterate that all entities would be eligible to apply for an FRS licence as long as they are able to satisfy the same set of licensing and regulatory requirements. The exemption for AIs from licensing criteria regarding restrictions on business activities, physical presence in Hong Kong and financial resources requirements are intended to prevent regulatory inconsistency and overlap with existing banking regulations. In considering a licence application from an AI, the MA would take into account the risk profile of AIs to determine whether a separate entity should be set up.

### *(b) Ongoing licensing conditions*

3.3.3. The majority of respondents agreed that the MA should have the power to impose ongoing licensing conditions. Some respondents sought clarification on the conditions in triggering the exercise of this power, the scope and coverage of these licensing conditions and whether there would be a right to make representations in case of disagreement.

## Response

3.3.4. Similar to other regulatory regimes in Hong Kong, it is proposed that the MA be given the power to impose ongoing conditions on licences granted to FRS issuers. Such power could be used to address matters arising in relation to a specific FRS issuer, such as the risk associated with its operating model, the effectiveness of its risk management framework and size of operation. The FRS issuer will be given notice of the MA's intention to impose licensing conditions, and will have an opportunity to make representations before the MA makes a decision on whether or not to proceed with attaching licensing conditions.

### *(c) Issuing more than one FRS*

3.3.5. Several respondents enquired as to whether a separate entity or a separate FRS issuance licence application would be required if an FRS issuer were to issue another FRS. A few respondents suggested a streamlined application process or submission of supplementary documents for an additional issuance.

## Response

3.3.6. We consider that an FRS issuer could issue more than one FRS under its existing licence, without the need to set up a separate entity or go through a separate application process. However, an FRS issuer should provide the rationale, justify the use cases, and seek the MA's prior consent before issuing a new FRS.

(d) *Open-ended licence*

3.3.7. There was broad agreement among respondents on an open-ended licence.

## Response

3.3.8. We will take forward this proposal.

(e) *Register of licensees and licensing fee*

3.3.9. Multiple respondents requested clarification regarding the necessary interfaces and advertising materials on which an FRS issuer's licence number must be displayed, as well as the mode of display. Respondents also raised questions as to whether there will be requirements on formatting or standard disclaimer terms to ensure consistency across FRS issuers.

## Response

3.3.10. While we will not mandate a specific format or mode of display for the licence number, we would expect FRS issuers to display the licence number in a prominent place on advertising materials, and in accessible locations on their websites and mobile applications. This would ensure that FRS users can easily distinguish the FRS issued by a licensed FRS issuer and those from the unlicensed.

## **4. Custody and Offering of FRS**

### ***Consultation questions:***

Q8. Do you have any view on the proposed arrangements for the offering of FRS?

- 4.1. There was broad agreement among respondents on the proposed approach of allowing only licensed FRS issuers, AIs, licensed corporations and licensed virtual asset trading platforms (collectively, “specified licensed entities”) to offer FRS despite one respondent being of the view that the proposed arrangement on offering may limit the potential of FRS serving as a public good. Respondents considered that the interests of potential and current FRS users can be better protected by such arrangement.
- 4.2. Some respondents sought clarification on the meaning of “offer” and whether such specified licensed entities would require a separate licence or pre-approval before engaging in offering activities. Some respondents suggested expanding the scope of specified licensed entities to include SVF licensees and potential licensed entities providing over-the-counter (“OTC”) VA trading services.

#### Response

- 4.3. We would like to clarify that “offer”, in relation to an FRS, means communication to the public in any form, or by any means, presenting sufficient information on the term of the offer and channels through which the FRS is to be offered so as to enable a person to decide whether to acquire the FRS. The proposed definition of “offer” takes reference from the regulatory regimes of other jurisdictions. While we consider that specified licensed entities would not be required to obtain a licence from the MA for the purpose of offering FRS, it is essential that these entities comply with the regulatory requirements applicable under their respective regimes. They should also seek necessary approvals from the relevant regulatory authorities before engaging in such activity.
- 4.4. We recognise that allowing SVF licensees to offer FRS could potentially promote wider adoption of FRS. However, we are mindful of the fact that SVF licensees typically focus on rather specific business models, and as such further assessments would be required in relation to the additional risks associated with SVF licensees offering FRS. All in all, we do not see an immediate need to conclude one way or the other at this juncture. We will continue to engage market participants in this regard, carefully assess the evolving landscape and formulate the relevant policy as and when appropriate.

- 4.5. On the other hand, we have been working closely with the relevant authorities on the possibility of allowing licensed VA OTC service providers to offer FRS, subject to the formulation and implementation of the VA OTC regime.

*Offering of FRS issued outside of Hong Kong*

- 4.6. Multiple respondents expressed their views on the offering of foreign FRS by issuers who do not hold an FRS licence from the MA. Some suggested relaxing the offering of foreign-issued FRS to allow retail access, subject to proper due diligence conducted by specified licensed entities or pre-defined regulatory criteria. Some respondents suggested that the HKMA consider the feasibility of establishing a “passporting” arrangement or entering into mutual recognition agreements with selected jurisdictions when equivalent regimes are put in place.

Response

- 4.7. We recognise the cross-border nature of FRS and the potential value they may hold for various use cases. However, it is important to note that many FRS currently operate outside the purview of any regulatory regime. This raises concerns regarding the stability mechanisms of these FRS and the potential risks they may pose when used by the general public.
- 4.8. That said, the international development for stablecoin regulations is fast-evolving. Various jurisdictions are proposing or will soon be putting in place regulatory regimes for FRS issuance activities. In line with international discussions, we would consider formal regulatory cooperation mechanisms with other jurisdictions as and when equivalent regimes are established, such as mutual recognition or “passporting” arrangements. In this regard, we will continue to actively participate in and keep in view discussions in international fora, maintain close dialogue with other regulators, and monitor regulatory developments in other jurisdictions. We will consider the merit of putting in place mutual recognition agreements with comparable jurisdictions as there could be incremental benefits to the sustainable development of the VA ecosystem. However, the timeline for putting in place such an arrangement would largely depend on the progress of international regulatory developments.



## 5. The Authorities' Power to Modify the Regime

***Consultation questions:***

- Q9.* Do you support granting the authorities necessary powers to adjust the parameters of in-scope stablecoins and activities, similar to the VASP regime?
- Q10.* Do you consider the proposed criteria and factors relevant and appropriate for the authorities to take into account when exercising such powers?

- 5.1. The majority of respondents agreed with the MA having the power to make adjustments to the scope of the regulatory regime. Several respondents requested further details on the specific criteria and factors that would guide the MA's exercise of this power.

Response

- 5.2. Given the fast-evolving development of the VA ecosystem, it is not practicable to set out an exhaustive list of conditions that would necessitate adjustments to the regulatory parameters. It is worth noting that similar criteria and factors related to financial stability risks and of public interest would be considered in exercising similar power under other financial regulatory regimes in Hong Kong. We would maintain close dialogue with market participants to identify the need for exercising such power.

## 6. Supervisory Powers of the MA

***Consultation question:***

- Q11.* Do you have any comments on the proposed supervisory powers of the MA on licensed FRS issuers?

## **6.1 Powers over Management of Licensee**

- 6.1.1 We received broad support from respondents on the proposed supervisory powers as they would be in line with the other regimes administered by the MA. A few respondents suggested that the MA’s consent should only be required for change in control, while other types of changes should require post-event reporting. Multiple respondents also expressed the view that the MA should exercise the power, when needed, in a transparent and accountable manner.

### Response

- 6.1.2 Taking into account the feedback received, we would proceed with the proposed supervisory powers. The MA will exercise these powers in a fair and impartial manner.

## **6.2 Other Supervisory Powers**

- 6.2.1. A significant number of respondents agreed with the provision of supervisory powers to the MA to ensure that licensees will continuously meet the statutory requirements.

### Response

- 6.2.2. We will take forward our proposal in this regard.

## **7. Investigation Powers of the MA**

### ***Consultation question:***

*Q12.* Do you have any comments on the proposed investigation powers of the MA in respect of licensed FRS issuers?

- 7.1. Respondents agreed with the proposed investigation powers of the MA as they would be similar to those in other ordinances, such as the Payment Systems and Stored Value Facilities Ordinance (Cap.584) and the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (Cap.615) (“AMLO”). A few respondents drew our attention to recent events in the VA sector and recommended that the HKMA should promptly alert the relevant law enforcement agencies for investigation upon detecting any suspicious activities. Several

respondents also enquired about the existing coordination mechanism between the HKMA and law enforcement agencies regarding the handling of potential wrongdoers. These respondents also emphasised the importance of alerting FRS users as soon as possible when suspicious activities are identified.

### Response

- 7.2. We are aware of the concerns raised by the respondents and recognise the importance of ensuring adequate protection of FRS users. The HKMA has been maintaining close dialogue and coordination with the law enforcement agencies as well as other financial regulators on suspicious activities and market surveillance. The HKMA will continue to issue press releases and reminders to the general public from time to time to alert them of suspicious FRS issuers and websites, and emphasise the importance of exercising caution and vigilance in relation to such matters.

## **8. Offences and Sanctions**

### *Consultation questions:*

*Q13.* Do you have any comments on the proposed offence and sanction provisions, in particular the sanctions and pecuniary penalty proposed, as well as the appeal arrangements?

### **8.1 Criminal Offences and Sanctions**

- 8.1.1. The majority of respondents agreed that imposing criminal sanctions for stablecoin-related offences would be necessary. Some respondents were concerned as to whether the coverage of criminal sanctions would be wide enough to effectively discourage unlawful activities.

### Response

- 8.1.2. The proposed criminal offences and sanctions are formulated with reference to the AMLO and other financial regulations. We acknowledge the importance of striking the right balance in terms of the scope and severity of the criminal offences and sanctions. We

would further discuss the proposed scope and level of criminal offences and sanctions with the Department of Justice to ensure that they are sufficient and appropriate to bring about a deterrent effect.

## **8.2 Civil and Supervisory Sanctions**

- 8.2.1. Respondents were supportive regarding the proposal for the MA to be able to impose civil and supervisory penalties on wrongdoers.

### Response

- 8.2.2. We will take forward our proposal.

## **9. Appeals**

- 9.1. The majority of respondents welcomed the proposal to establish an appeal tribunal mechanism to provide checks and balances on the MA's decisions.

### Response

- 9.2. The proposal will remain unchanged in this regard.

## **10. Transitional Arrangement**

### ***Consultation questions:***

*Q14.* Do you have any comments on the proposed transitional arrangement?

- 10.1. Most respondents agreed with the proposal of putting in place a transitional arrangement. A few respondents recommended that the HKMA lengthen the non-contravention period to allow more time for submitting licence applications.

### Response

- 10.2. In determining the duration of the non-contravention period, key considerations that we have taken into account include protection of FRS users, the time needed for pre-existing FRS issuers to make

necessary adjustments to their operations to comply with the proposed regulatory requirements, the time required for the closing down of business, as well as the fraud risks that FRS users could be exposed to during the non-contravention period. The HKMA has been actively involving market participants in shaping the regulatory regime, and with the launch of the Sandbox, it is considered that a six-month non-contravention period would be reasonable and sufficient.

## **11. Miscellaneous**

- 11.1. A number of respondents highlighted the importance of public education and awareness, noting the nascent nature of stablecoins and VAs in general. Some respondents also suggested that HKMA engage with market participants to enhance public education efforts.

### Response

- 11.2. We recognise that public education plays a vital role in enhancing protection of the Hong Kong public, as well as facilitating the sustainable and responsible development of the VA ecosystem. We intend to collaborate with market participants and relevant stakeholders to step up public education initiatives.

## **12. Way Forward**

- 12.1. We are preparing a bill to implement the regulatory proposal and plan to introduce the bill into the Legislative Council later this year. The HKMA will in due course issue licensing and supervisory guidelines to facilitate applicants' understanding of, and compliance with, the relevant requirements thereunder.

**Financial Services and the Treasury Bureau  
Hong Kong Monetary Authority  
July 2024**

## **Annex – List of respondents**

1. 3HODL Limited
2. ABT Tech Limited
3. Accumulus GBA Technology (Hongkong) Co., Ltd.
4. Aimichia Technology Co. Ltd.
5. AnchorX Limited
6. Animoca Brands
7. Ant Group
8. Arta Techfin Corporation Limited
9. Asia RWA Workgroup
10. Asia Securities Industry and Financial Markets Association
11. Baker & McKenzie
12. Banking Circle S.A.
13. Binance
14. Bitquant Digital Services
15. Bitrock Capital
16. Boswell Capital Management Limited
17. CertiK
18. CFA Society Hong Kong
19. China Information Technology Development Limited
20. Christian Leung
21. Circle Internet Financial, LLC
22. Clifford Chance
23. CODA Bridge Ltd.
24. Coinlectibles Inc.
25. Consumer Council
26. Crystal Intelligence
27. David Gunson
28. Digital Token Identifier Foundation
29. DLA Piper Hong Kong
30. Dr. Du Jinsong and Mr. Iu Kwan Yuen
31. Edison Ng Hung Ying
32. Emerging Payments Association Asia
33. Fangda Partners
34. FinTech Association of Hong Kong
35. Flying Hippo Technologies Limited
36. Fulcrum Fintech Co Ltd and Hong Kong Digital Assets Group in Deloitte Touche  
Tohmatsu
37. Gate Digital Limited
38. Harvest Fund
39. Herman H.M. Hui & Co., Solicitors
40. HKFAEx Group Limited
41. HKT Payment Limited
42. Hong Kong Digital Finance Association
43. Hong Kong Professionals and Senior Executives Association
44. HSBC
45. Institute of Financial Technologists of Asia
46. IOS Technology Limited
47. JD.com

48. John Zhou
49. Joshua A. Chu
50. Julian Han Meng So
51. Konggold Group
52. KPMG
53. KYAX
54. Lawrence Chu
55. Mag Chang
56. MaiCapital Limited
57. Marvion Inc.
58. Mazars Consulting (HK) Limited
59. MENAStrat Limited
60. MUNG
61. Neo Global Development
62. OKG Technology Holdings Limited
63. OneDegree Hong Kong Limited
64. P&Y Technology Limited
65. Palm Karbon Inc.
66. Panga Capital
67. Petaverse (Hong Kong) Limited
68. Philip Tang
69. Pokit Lok
70. Prof. Lawrence J. Lau
71. Prof. Jack Poon
72. PwC
73. QReg Advisory Limited
74. RD Technologies
75. Reap Technologies Limited
76. Ricky Chan
77. Ripple Labs Inc.
78. Robert Lui
79. Sky Still
80. Slaughter and May
81. Smart City Academy
82. Stablecoin Standard
83. Standard Chartered Bank
84. Stephenson Harwood
85. The Crypto Council for Innovation
86. The Hong Kong Association of Banks
87. The Hong Kong Chartered Governance Institute
88. The Hong Kong Fintech Industry Association
89. The Hong Kong Licensed Virtual Asset Association Limited
90. The Law Society of Hong Kong
91. Thomas Boswell
92. Tokenis3 Limited
93. Trio Consultant Hub Limited
94. Tsunami Advisors Limited
95. Tykhe Capital Group Limited
96. V Systems
97. Venture Smart Financial Holdings Limited

98. Web3 Harbour
99. Weisha Zhu
100. Worldwide Stablecoin Payment Network
101. Xtreme Business Enterprises Limited
102. xWhale
103. 民建聯
104. 成和集團
105. 香港南雅貨幣交易所
106. 移卡科技有限公司
107. Two respondents requested not to be named

Note: Some of the feedback reached the HKMA after the feedback period closed on 29 February 2024.