

Public Consultation on Legislative Proposal to Regulate Virtual Asset Custodian Services

FOREWORD

1. This consultation document is jointly issued by the Financial Services and the Treasury Bureau (“FSTB”) and the Securities and Futures Commission (“SFC”) for seeking views on the legislative proposal to regulate virtual asset (“VA”) custodian services through the introduction of a licensing regime for providers of VA custodian services.
2. The FSTB and the SFC welcomes written comments on or before 29 August 2025 through any of the following channels –

By mail: Division 5, Financial Services Branch
Financial Services and the Treasury Bureau
24/F, Central Government Offices
Tim Mei Avenue, Tamar Central, Hong Kong

By email: vacustody-consult@fstb.gov.hk
3. The FSTB or the SFC may, as appropriate, reproduce, quote, summarise and publish the written comments received, in whole or in part, in any form and use without seeking permission of the contributing parties.
4. Names of the contributing parties and their affiliations may be referred to in other documents the FSTB or the SFC (as applicable) publishes and disseminates through different means after the consultation. If any contributing parties do not wish to have their names or affiliations disclosed, please expressly state so in their written comments. Any personal data provided will only be used by the FSTB, the SFC and other government departments/agencies for purposes which are related to this consultation.

CHAPTER 1

INTRODUCTION

Purpose

- 1.1 This document sets out for public consultation the conceptual framework and key parameters of the legislative proposals to put in place a licensing regime for the provision of VA custodian services, under which service providers will need to be licensed or registered, and will be required to observe anti-money laundering and counter-terrorist financing (“AML/CFT”) regulations and other regulatory requirements. Comments from relevant stakeholders are invited to facilitate our finalisation of the details of the legislative proposal.

Background

- 1.2 In October 2022, the Government issued a Policy Statement on Development of VAs in Hong Kong, setting out the Government’s vision and policy direction for the digital asset sector. In particular, the policy statement sets out the Government’s commitment to developing a comprehensive framework for the regulation of digital asset activities under the “same activity, same risks, same regulation” principle. On 26 June 2025, the Government promulgated the second policy statement, setting out the latest policy direction and initiatives as Hong Kong moves towards the next phase of development in digital assets.
- 1.3 In December 2022, the Anti-Money Laundering and Counter-Terrorist Financing (Amendment) Ordinance 2022 was enacted, to provide for a licensing regime for VA trading platforms (“VATPs”), complying with the AML/CFT requirements¹ stipulated by the Financial Action Task Force (“FATF”)², as well as providing for

¹ Including requirements such as customer due diligence (“CDD”) and record keeping.

² The FATF is an inter-governmental body established in 1989 that sets international standards for combating money laundering and terrorist financing. It comprises 40 members, including Hong Kong in the capacity of Hong Kong, China.

investor protection³. Under the licensing regime, which commenced operation in June 2023, any person carrying on a business of operating a VA exchange⁴ in Hong Kong or actively marketing such service to Hong Kong investors must be licensed by the SFC unless otherwise permitted by the law (“VATP regime”). Licensed VATPs are required to fulfil a fit-and-proper test, and AML/CFT and investor protection requirements, among others. The SFC is equipped with supervisory, investigative and intervention powers. Persons not complying with the requirements concerned are liable to administrative and criminal sanctions.

- 1.4 As of end-June 2025, the SFC has formally licensed 11 VATPs under the Securities and Futures Ordinance (Cap. 571) (“SFO”) ⁵ for carrying on Type 1 (dealing in securities) and Type 7 (providing automated trading services) regulated activities, and under the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (Cap. 615) (“AMLO”) for providing the VA service of operating a VA exchange. Save for these licensed VATPs, there are currently 10

³ Including requirements on safe and segregated custody of clients’ assets, financial soundness and avoiding conflict of interest imposed through regulatory requirements in June 2023.

⁴ Specifically, this refers to operating a VA exchange, this is to say, providing services through means of electronic facilities—

(a) whereby—

(i) offers to sell or purchase VAs are regularly made or accepted in a way that forms or results in a binding transaction; or

(ii) persons are regularly introduced, or identified to other persons in order that they may negotiate or conclude, or with the reasonable expectation that they will negotiate or conclude sales or purchases of VAs in a way that forms or results in a binding transaction; and

(b) where client money or client VAs comes into direct or indirect possession of the person providing such service.

⁵ Prior to the introduction of the licensing regime under the AMLO, the SFC introduced in 2018 an opt-in regime for VATPs to voluntarily come under the SFC’s regulatory remit under the SFO by trading at least one security token. With the new licensing regime, VATPs providing trading services for VA (which exclude any security tokens) are required to be licensed under the AMLO. Given that the terms and features of VA may evolve over time and change from a non-security token to a security token (or vice versa), to avoid contravening any of the licensing regimes under the SFO and the AMLO and ensure business continuity, VATPs are encouraged to apply for approvals under both Ordinances and become dually-licensed. To ensure regulatory parity, the regulatory requirements and standards under the AMLO and the SFO have been aligned.

VATP applicants whose licence applications have yet to be approved by the SFC, including four of which are deemed-to-be licensed VATP applicants.

- 1.5 When Hong Kong first established the VATP regime, the SFC recognised the technological barriers in safekeeping of VAs faced by the general public in Hong Kong, particularly among those who were less tech-savvy. To address these concerns, the SFC imposed a requirement on VATPs to provide custodian services through their respective wholly-owned subsidiaries (i.e. their associated entities) in order to provide a safe option for Hong Kong investors to keep their VAs with a regulated entity in Hong Kong.
- 1.6 The SFC and the HKMA have also required SFC-licensed intermediaries (including banks⁶ registered with the SFC to conduct regulated activities) which provide VA-related services to clients to custody client VAs with SFC-licensed VATPs, banks or subsidiaries of locally-incorporated banks⁷. Further, for SFC-authorised funds investing in VAs, the trustee or custodian can only delegate VA custody functions to either an SFC-licensed VATP, a bank or a subsidiary of a locally incorporated bank which meets the requirements of the HKMA⁸. These current arrangements ensure that the VAs of investors in Hong Kong are held in custody by regulated entities such that the SFC and the HKMA have sufficient regulatory handle and are adequately safeguarded by way of regulatory requirements imposed by the SFC and the HKMA.

⁶ For the purpose of this paper, a “bank” refers to an authorised institution defined under the Banking Ordinance.

⁷ See the joint circular on intermediaries’ virtual asset-related activities issued by the SFC and the HKMA on 22 December 2023 at – <https://apps.sfc.hk/edistributionWeb/gateway/EN/circular/doc?refNo=23EC67>.

⁸ See the circular on SFC-authorised funds with exposure to virtual assets by the SFC on 7 April 2025.

- 1.7 The FSTB conducted a public consultation from February to April 2024 on a proposal to broaden the regulatory scope to cover VA over-the-counter (“OTC”) trading⁹. Among other feedback received, it has come to our attention that a wide range of VA OTC activities (collectively “VA dealing” activities) prevail in the market, and custody of client assets appeared to be a key element during the process of such activities (e.g. VA broker-dealer activities).
- 1.8 With the proposed introduction of a licensing regime for VA dealing service providers in Hong Kong¹⁰, as well as the growth of various VA-related services and products (notably VA funds such as SFC-authorized spot VA exchange-traded funds), it is expected that there will be substantial demand for VA custodian services.
- 1.9 In such circumstances, we see a need to bring VA custodian services within the statutory regulatory remit, with a view to completing the VA ecosystem while ensuring that the “same activity, same risks, same regulation” principle is observed and sufficient investor protection is provided for.

Legislative Proposal

- 1.10 We propose introducing a new licensing regime for providers of VA custodian services through legislative means. In line with the “same activity, same risks, same regulation” principle, taking reference from the VATP regime, the proposed VA custodian licensing regime will require a licensed or registered VA custodian service provider to meet a host of licensing and regulatory requirements as well as AML/CFT obligations as set out in the ensuing sections.

⁹ See the consultation paper at – https://www.fstb.gov.hk/fsb/en/publication/consult/doc/VAOTC_consultation_paper_en.pdf.

¹⁰ Please refer to the Public Consultation on Legislative Proposal to Regulate Dealing in Virtual Assets issued on 27 June 2025.

CHAPTER 2

REGULATION OF VIRTUAL ASSET CUSTODIAN SERVICE PROVIDERS

- 2.1 There is an emerging consensus globally that VA regulations should address not only potential money laundering/terrorist financing (“ML/TF”) risks posed to the international financial system, but also investor protection concerns given the growing prevalence of trading in VAs. Specifically, VAs are considered to be vulnerable to ML/TF risks because they enable pseudonymity or anonymity and decentralisation compared to traditional centralised intermediation and transfer, and such features can be abused to facilitate layering of crime proceeds into fiat money through interfaces with the traditional financial system.
- 2.2 To address the ML/TF risks of VA activities, the FATF revised its standards under Recommendation 15 in February 2019 to require jurisdictions to regulate VA service providers (“VASPs”) for AML/CFT purposes and supervise their compliance. In essence, the FATF requires jurisdictions to impose on VASPs the full range of AML/CFT obligations that are currently applicable to financial institutions and designated non-financial businesses and professions (“DNFBPs”)¹¹, through prohibition, or licensing or registration mechanisms which would subject VASPs to the same AML/CFT requirements as financial institutions and DNFBPs.
- 2.3 Further, VAs, many of which do not have any intrinsic value and are highly speculative and volatile, also pose considerable challenges to investor protection, as evident in their association with fraud, security breach and market manipulation, both globally and locally. This has drawn attention and led to calls for more robust investor protection measures.

¹¹ DNFBPs include real estate agents, lawyers, notaries, accountants, trust or company service providers, and dealers in precious metals and stones.

- 2.4 The VATP regime in Hong Kong came into effect on 1 June 2023, with 11 VATPs licensed as at end of June 2025. Further, in early 2024, we conducted a public consultation on a legislative proposal to introduce a licensing regime for providers of VA OTC services. In view of the feedback received, we will conduct a second consultation to refine the legislative proposal.
- 2.5 While the activities of VATPs have been put under the regulatory remit of the SFC through the VATP regime, there remains other types of unregulated VA activities, exposing the investing public to ML/TF and misconduct risks, particularly those resulting from frauds and cyberattacks.
- 2.6 Meanwhile, various economies continue to actively develop digital assets and other financial innovation. As an international financial centre, following the issuance of the first policy statement in October 2022, we have been actively nurturing a facilitating environment for the sustainable development of Web3 and digital assets in Hong Kong. On 26 June 2025, we promulgated the second policy statement, setting out our latest policy direction and initiatives as Hong Kong moves towards the next phase of development in digital assets, focusing on strategic measures to enhance liquidity in digital asset trading, diversify digital asset product offerings, and strengthen Hong Kong's position as a global digital asset hub.
- 2.7 To further facilitate the development of the VA market, the SFC announced a new roadmap (i.e. **ASPIRe**)¹² in February 2025, which includes measures to facilitate further VA product offerings and services such as on staking, borrowing/lending, and derivatives trading, etc., with a view to putting forward a balanced regulatory approach that supports growth, mitigates vulnerabilities and solidifies Hong Kong's role as a trusted nexus for VA liquidity.

¹² The roadmap comprises five pillars with 12 initiatives focusing on Access, Safeguards, Products, Infrastructure and Relationships.

Current Regulation of VA Custodian Activities

- 2.8 Currently, VATPs regulated by the SFC are required to perform custodian services of client VA through their respective wholly owned subsidiaries (i.e. their associated entities) and observe certain key requirements¹³ regarding the proper safeguarding of client assets, including segregation of client VA, robust risk management controls (including in relation to private key management) and record keeping etc.
- 2.9 The SFC and the HKMA have also required intermediaries regulated by or registered with the SFC (including banks) which provide VA-related services to clients to safekeep client VAs with SFC-licensed VATPs, banks or subsidiaries of locally-incorporated banks¹⁴. Further, for SFC-authorised funds investing in VAs, the trustee or custodian can only delegate VA safekeeping functions to either an SFC-licensed VATP, a bank, or a subsidiary of a locally incorporated bank which meets the requirements of HKMA¹⁵.
- 2.10 Separately, banks may also provide custodian services. In this connection, the HKMA published guidance¹⁶ on the provision of digital asset (including VA) custodian services by banks and subsidiaries of locally incorporated banks in February 2024 to set out the expected standards in respect of governance and risk management, segregation of client VA and record keeping etc.

¹³ See Part X of Guidelines for Virtual Asset Trading Platform Operators at – <https://www.sfc.hk/-/media/EN/assets/components/codes/files-current/web/guidelines/Guidelines-for-Virtual-Asset-Trading-Platform-Operators.pdf>.

¹⁴ See the joint circular on intermediaries' virtual asset-related activities issued by the SFC and the HKMA on 22 December 2023 at – <https://apps.sfc.hk/edistributionWeb/gateway/EN/circular/doc?refNo=23EC67>.

¹⁵ See the circular on SFC-authorised funds with exposure to virtual assets by the SFC on 7 April 2025 at – <https://apps.sfc.hk/edistributionWeb/gateway/EN/circular/doc?refNo=25EC21>.

¹⁶ See <https://www.hkma.gov.hk/media/eng/doc/key-information/guidelines-and-circular/2024/20240220e4.pdf>.

- 2.11 However, there remains operators outside of SFC's or HKMA's oversight carrying out VA custody functions in Hong Kong¹⁷. Among others, some local and international companies provide standalone custodian services in Hong Kong. In view of the importance of their role in ensuring the safekeeping of VAs, and for the purpose of providing better investor protection, there is a strong need to bring VA custodian operations into the regulatory remit.

Scope of Regulation

- 2.12 In devising the proposed regulatory regime, we have the following main considerations –

- (a) **Regulatory authorities:** SFC will be the regulator for licensing and registering VA custodian service providers and setting standards, while HKMA will be the frontline regulator for banks and stored value facilities (SVFs)¹⁸ and supervise their VA custodian activities. Similar to the approach adopted in the regulation of the securities business of banks and subsidiaries of locally incorporated banks, VA custodians which are subsidiaries of locally incorporated banks will be regulated by the SFC. Stablecoin issuers licensed by the HKMA which carry on custody of the stablecoins they issue will be subject to ongoing supervision by the HKMA.
- (b) **Investor protection:** through safekeeping of client VAs with segregation of assets, adequate audit, record keeping and other safeguards.
- (c) **Risk management:** the full range of AML/CFT requirements and fit-and-proper requirements should apply; there should also be adequate conduct and risk management.
- (d) **Market development:** considerations are being given to enable other activities which can be provided by a licensed or registered VA custodian service provider, e.g. staking.

¹⁷ We observe that some existing custodian service providers resort to applying for a TCSP licence.

¹⁸ For the purpose of this paper, an “SVF” refers to a stored value facility licensee, i.e. a licensee defined under the Payment Systems and Stored Value Facilities Ordinance.

Definition and Coverage

- 2.13 We propose requiring any person carrying on a business in Hong Kong of providing VA custodian service to be licensed by or registered with the SFC¹⁹. The provision of VA custodian service as a business is proposed to be defined as –

by way of business, the safekeeping of (i) VAs²⁰ on behalf of clients; or (ii) instruments enabling transfer of VAs of clients (including but not limited to private keys) on behalf of clients.

Meaning of “instruments enabling transfer of VAs”

- 2.14 Under limb (ii), the reference to “instruments enabling transfer of VAs” intends to capture the safeguarding of private keys (or similar instruments such as smartcards, authentication credentials for accessing the private keys) which would enable transfer of client VAs.

Use of third parties in the safekeeping of client VAs

- 2.15 We understand that VA custodian service providers may use third parties in the course of providing their services, whether through separate entities within their corporate group or other technology infrastructure companies in safeguarding clients’ VAs. For example, a VA custodian service provider may store key shards²¹ with its

¹⁹ In the case of banks and SVFs, they will need to be registered with the SFC which will consult the HKMA on application for registration. Day-to-day supervision and monitoring of the VA custodian services of banks and SVF registered as VA custodian service providers will rest with the HKMA. This approach is in line with the existing arrangement under the SFO for banks registered with the SFC to conduct securities business.

²⁰ Adopting the definition of VA in the VATP licensing regime, as set out in section 53ZRA of the AMLO, which refers to a cryptographically secured digital representation of value that possesses a range of features (including being expressed as a unit of account or a store of economic value, used for payment for goods or services, discharge of debt, etc.).

²¹ Generally speaking, “key shards” refer to pieces of private cryptographic key that have been split using a method called key sharding. This process divides a private key into multiple distinct shards, each individually useless on its own, but which can be combined in a specific threshold (e.g. 3 out of 5 shards) to reconstruct the original key and gain access to the VAs.

affiliates or use Multi Party Computation (“MPC”)²² in transferring client VA. We invite the public to share their observations in the market on the various business models, the involvement of third parties, and technology infrastructure setups. This will help us to more accurately craft the definition and determine which entities and/or individuals should be included or excluded from requiring a licence under the new regime and the applicable regulatory requirements.

Meaning of “by way of business”

- 2.16 With the addition of the limb of “by way of business”, the definition intends to cover safekeeping of VAs on behalf of clients or private keys (or similar instruments) that would enable transfer of client VAs as a business activity, instead of self-custody of one’s own VAs (i.e. where only the client has possession of the private keys (or similar instruments)).

Incidental exemptions

- 2.17 Currently, entities regulated by the SFC or the HKMA, such as licensed corporations or registered institutions providing VA dealing services, hold VAs on behalf of clients, while such client VAs are ultimately held with SFC-licensed VATPs, banks or subsidiaries of locally incorporated banks.
- 2.18 Depending on the scope and coverage of “VA custodian service” to be concluded as a result of this consultation exercise, the regulated intermediary providing VA dealing services may require a licence if such activities would fall within the definition of a VA custodian service. Similarly, a depositary of an SFC-authorised fund with VAs in the fund’s portfolio may also require a licence. However, such holding of client VAs is wholly incidental to their provision of VA services or carrying on of regulated activities.

²² MPC is a cryptographic protocol used to split a private key into multiple shares distributed among different parties. The parties collaboratively generate signatures for transactions without exposing the full private key in one place.

- 2.19 In view of the above, depending on the final scope and coverage of “VA custodian service”, we propose to provide for incidental exemptions for SFC or HKMA regulated entities where the safekeeping of client VAs is wholly incidental to the principal business of providing the VA service or carrying on of the regulated activity for which the regulated entities are so licensed or registered, provided that the regulated entities do not safekeep the private keys (or similar instruments) on behalf of clients. We also propose that a stablecoin issuer licensed by the HKMA who carries on custody of only the stablecoins it issues for its clients will also be exempted, notwithstanding that the stablecoin issuer safekeeps the private keys. This exemption is proposed on the grounds that the relevant stablecoin issuer and its activities are subject to the HKMA’s regulation and ongoing supervision.
- 2.20 We propose requiring, by way of regulatory requirements, licensed or registered entities (including licensed or registered fund managers) to use VA custodian service providers in Hong Kong that are licensed by or registered with the SFC for safekeeping client VAs.
- 2.21 Based on the above, non-exhaustive examples of entities required to obtain a licence or registration under the new proposed regime would include:
- (a) associated entities of SFC-licensed VATPs, which are currently required to provide VA custodian services under the VATP regime. This means that the associated entities of SFC-licensed VATPs currently providing custodian services by way of safekeeping the private keys (or similar instruments) which enable transfer of client VAs (and who wish to continue to do so) would need to obtain a separate VA custodian service licence under the new regime;
 - (b) banks, subsidiaries of locally incorporated banks and SVFs, if they provide VA custodian services themselves by way of safekeeping the private keys (or similar instruments) which enable transfer of client VAs to their clients, even if such safekeeping is carried on as part of providing VA dealing services or acting as depositaries of SFC-authorised funds with VAs in the funds’ portfolios; and

- (c) licensed or registered fund managers, if they provide self-custody to the funds under their management which invest in VA by way of safekeeping the private keys (or similar instruments) which enable transfer of fund VAs.

2.22 On the other hand, examples of entities which would not require a licence include:

- (a) bank security vaults storing encrypted / de-activated back-up of private keys (or a part thereof);
- (b) security companies storing encrypted / de-activated back-up of private keys (or a part thereof);
- (c) technical service providers that support the provision of the VA custodian service but do not safekeep the private keys (or similar instruments) themselves such as the service of providing communication or information technology networks.

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?

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.

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.

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.**
- (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?**
- (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.**

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

Eligibility

2.23 To ensure sufficient nexus for effective supervision and monitoring, we propose that an applicant (except for banks and SVFs) must be (i) a locally incorporated company with a permanent place of business in Hong Kong, or (ii) a company incorporated elsewhere but registered in Hong Kong under the Companies Ordinance (Cap. 622). The physical presence requirement ensures that local anchorage is available for the SFC and/or HKMA to supervise and the SFC to enforce regulatory requirements against licensed or registered VA custodian service providers. All licensees will be required to identify suitable premises for its storage of books and records.

- 2.24 As with VATPs regulated under the AMLO, an applicant must be fit and proper before a licence or registration can be granted. The fit-and-proper requirement will apply to all substantial shareholders and individuals carrying out VA custodian functions for the corporate entity.
- 2.25 In determining whether a person is fit and proper, the SFC will take into account, among other relevant considerations, whether the person has been convicted anywhere of an ML/TF offence or other offence in which the person is found to have acted fraudulently, corruptly or dishonestly; whether the person has failed or may fail to observe the AML/CFT or other regulatory requirements applicable to licensed VA custodian service providers; the experience and relevant qualifications of the person; and whether the person is of a good standing and financial integrity (e.g. not being the subject of any bankruptcy or liquidation proceedings).
- 2.26 In line with the requirements under the SFO for intermediaries and the VATP regime, an applicant will have to appoint at least two responsible officers approved by the SFC (or two executive officers approved by the HKMA as the case may be) to assume the general responsibility of ensuring compliance with AML/CFT requirements and other regulatory requirements, and be held personally accountable in case of contravention or non-compliance of the requirements. All executive directors of a licensed VA custodian service provider must be made responsible officers upon approval by the SFC.

Activities Allowed

- 2.27 In respect of the proposed VA custodian service, licensed or registered providers can provide custodian service of VAs in their course of business. Depending on the final scope and coverage of “VA custodian service”, this would involve the safekeeping of VAs on behalf of clients including through safekeeping instruments (including private keys or similar instruments) which enable transfer of client VAs. This would also include functions that are part and parcel of the VA service, such as the deposit and withdrawal of client VAs and carrying out settlement instructions of licensed intermediaries for VA trading activities.

Types of VAs under custody

- 2.28 As regards the types of VAs for which a licensed or registered VA custodian service provider can provide custodian service, we propose not to impose any restriction, provided that the VA custodian service provider has performed robust due diligence on the token to ensure ML/TF risks can be adequately managed, and for a VA custodian which safekeeps the private keys (or similar instruments), its custody infrastructure is able to support taking the token into custody.

Other activities

- 2.29 As regards the conversion of a VA to another VA or fiat or vice versa, or spot trade of any VA, we propose that licensed or registered VA custodian service providers seeking to provide VA dealing services will need to also apply for a licence or registration under the proposed VA dealing regime, unless otherwise exempted under that regime or may need to set up a separate entity for providing such service.
- 2.30 We propose that other services ancillary to the provision of VA custodian services (e.g. staking) may be allowed, subject to the SFC's approval or the HKMA's approval (as applicable) on a case-by-case basis, with adequate regulatory requirements imposed by the SFC on such activities.

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

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

Individual Licence and Relevant Individuals

- 2.31 In line with a licence for Type 13 regulated activity under the SFO (i.e. providing depositary services for relevant collective investment schemes), we propose that individuals responsible for the VA custodian service would be required to be licensed representatives or relevant individuals accredited to the VA custodian service provider. Specifically, we would expect that staff members who

perform more than a clerical role²³ in a business function directly relating to the VA custodian service provider's discharge of its regulatory obligations under the new regime should seek to be licensed or be engaged as relevant individuals. Staff who assume oversight duties over the performance of custody functions should obtain the licence or be engaged as relevant individuals. This would include members responsible for directly supervising the conduct of these functions, approving instructions or transactions, or approving asset transfers, who are expected to obtain the SFC's approval as responsible officers or the HKMA's consent as executive officers for VA custodian services.

- 2.32 We recognise that some VA custodian services are relatively operational in nature and it is commonplace for a VA custodian service provider to assign operational tasks to clerical staff. We take the view that clerical staff members who perform operational tasks are generally not required to be licensed or be engaged as relevant individuals under this regime. However, to enhance accountability, staff authorised to sign or approve transactions to effect a transfer of clients' VAs are expected to be licensed or be engaged as relevant individuals.
- 2.33 Staff members of internal corporate functions of a VA custodian service provider, such as human resources, finance and accounting, and legal and compliance, will not be required to be licensed or be engaged as relevant individuals.
- 2.34 Under the proposed licensing framework, a person applying for a licence or registration to provide VA custodian service must satisfy the SFC that he or she is fit and proper to be so licensed or registered. Banks should ensure that their relevant individuals are fit and proper to be so engaged.
- 2.35 The existing licensing criteria relating to VATPs under AMLO will apply equally to firms and individuals seeking to be licensed or registered for the provision of VA custodian service.

²³ Clerical roles generally refer to the performance of routine tasks following established procedures, such as document filing and data input. These roles generally do not require staff to make business decisions.

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

Other Regulatory Requirements

- 2.36 Of utmost importance to the provision of VA custodian services is a licensed or registered VA custodian service provider's ability to ensure the security and robustness of its custodian services in order to safeguard client VAs.
- 2.37 Regarding VA custodian service providers which do not safekeep private keys (or similar instruments) but appoint other VA custodian service providers licensed by or registered with the SFC or other VA custodians under the regulation of other jurisdictions for safekeeping the private keys (or similar instruments), if it is concluded that they are required to be licensed or registered under this new regime, they are expected to adhere to regulatory requirements similar to those imposed on depositaries of SFC-authorized funds licensed for Type 13 regulated activity under the SFO corresponding to a depositary's custody and oversight role and responsibilities. In particular, robust internal controls must be established for oversight of delegates or third parties.
- 2.38 In relation to VA custodian service providers which safekeep private keys (or similar instruments), in addition to requiring segregation of client VAs and competent personnel, licensed or registered VA custodian service providers will be required to comply with robust regulatory requirements in the areas of private key management, cybersecurity and business continuity planning. The SFC will align these regulatory requirements with the custody requirements currently imposed on SFC-licensed VATPs, which, consistent with the commencement of the VATP licensing regime²⁴, will be subject to a separate public consultation exercise. In this connection and as

²⁴ Prior to the commencement of the VATP licensing regime, the SFC conducted a public consultation exercise on the proposed regulatory requirements for SFC-licensed VATPs from February to May 2023.

announced in the SFC's **ASPIRe** roadmap in February 2025, the SFC will explore adopting a dynamic approach to custody technologies and storage ratios to facilitate a secure and competitive virtual asset ecosystem enabling sustainable market growth while ensuring robust investor protection.

2.39 As with all financial institutions, licensed or registered VA custodian service providers will be required to observe the AML/CFT requirements stipulated in Schedule 2 to the AMLO relating to CDD and corresponding record-keeping. We also propose the following regulatory requirements –

- (a) **Financial resources:** except for banks which are subject to existing capital requirements of the HKMA, a licensed or registered VA custodian service provider is required to have adequate financial resources, for operating its VA business, including baseline financial resources of a minimum paid-up share capital of HK\$10 million and a minimum required liquid capital up to \$3 million (depending on the business model). These proposed financial resources requirements have made reference to the financial resources requirements of SFO Type 13 regulated activity licensees licensed to provide depositary services for relevant CIS;
- (b) In addition, we are considering whether additional financial resources requirements such as requirements calibrated with reference to operating expenses and/or the scale of the business activities are required for a licensed custodian. This will be considered in a holistic manner with the current regulatory requirements applicable to VATPs which seek to mitigate risk of loss of client VAs and govern compensation for loss of client VAs. This review of current requirements would be a subject of a separate consultation exercise that will cover, for example, compensation and insurance arrangements, the custodial infrastructure deployed and internal control requirements;
- (c) **Knowledge and experience:** a licensed or registered VA custodian service provider is required to have a proper corporate governance structure staffed by personnel with the necessary knowledge and experience (for example, having passed a paper on regulatory knowledge) to enable the effective discharge of responsibility;

- (d) **Conduct of business:** a licensed or registered VA custodian service provider is required to act honestly, fairly, with due skill, care and diligence, in the best interests of its clients and the integrity of the market, as well as comply with all statutory and regulatory requirements applicable to the conduct of its business activities;
- (e) **Risk management:** a licensed or registered VA custodian service provider should have in place appropriate risk management policies and procedures for managing ML/TF²⁵, cybersecurity and other risks (such as system failure) arising from its activities that are commensurate with the scale and complexity of the business;
- (f) **Information and notifications:** a licensed or registered VA custodian service provider is required to submit a wide range of information (for example, the details in respect of wallet addresses used in their course of business and the scope and nature of the business carried on or to be carried on and types of services provided or to be provided) as well as ensure that the submitted information remains up-to-date;
- (g) **Record keeping:** a licensed or registered VA custodian service provider is required to maintain proper records of transactions and fund flows, which will be accessible as part of the SFC's / the HKMA's ongoing monitoring of licensed or registered VA custodian service providers; and
- (h) **Financial reporting and disclosure:** other than banks, a licensed or registered VA custodian service provider should observe prescribed auditing and disclosure requirements and publish audited accounts.

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?

²⁵ Among others, a licensee has to adopt appropriate technological solutions (e.g. blockchain analytic tools) that enable the tracking of VAs and the associated wallet addresses and identification of potentially suspicious transactions.

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

Licensing process and Transitional period

2.40 It is expected that a licensed or registered VA custodian service provider would need to make substantive investment to acquire the necessary scale and sophistication for operating its business. A degree of certainty in the operating environment is necessary to encourage long term investment in the business. As such, in line with the VATP regime and the SFO regime for SFC-regulated intermediaries, we propose that a licensed or registered VA custodian service provider will be granted an open-ended licence or registration, i.e. it will remain valid until the licence or registration of the VA custodian service provider is revoked by the SFC, for example, due to misconduct or the licensed or registered VA custodian service provider ceases operation.

2.41 We will facilitate the transitioning into the new licensing and registration regime of legitimate existing VA custodian service providers carrying on a business in Hong Kong especially in light of the substantive investment made by existing VA custodians in Hong Kong. However, we are not inclined to provide a deeming arrangement to pre-existing VA custodian service providers. Instead, we are inclined for the licensing regime to become fully effective on the commencement date of the relevant statutory provisions. We will encourage all industry stakeholders already engaged in VA custodian services activities to reach out to the SFC or the HKMA (as applicable) as soon as possible (e.g. for initiating pre-application processes)²⁶ and such industry feedback will be important in the final determination of the proposed licensing regime's commencement date. Industry stakeholders that are subject to the proposed licensing regime but fail to reach out to the SFC or the HKMA (as applicable) may suffer undue interruptions to their business operations due to having to cease business operations on the commencement date of the licensing regime.

²⁶ For such enquiries, please contact the SFC FinTech Unit at fintech@sfc.hk.

2.42 In line with the swift licensing process for new VATP applicants²⁷, we propose that VA custodian service providers which safekeep private keys (or similar instruments) seeking a licence or registration from the SFC will also be required to engage an external assessor to perform an external assessment after deploying all relevant systems and controls, and that the SFC will become a party to the engagement for the external assessment to be conducted by VA custodian service providers. The external assessment will focus on ensuring that a VA custodian service provider's policies, procedures, systems and controls are suitably designed and implemented, and is required to be performed as a direct assurance engagement under relevant standards and frameworks.

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

Expedited Licensing Process for Relevant Regulated Entities

2.43 As mentioned above, associated entities of SFC-licensed VATPs, banks or subsidiaries of locally incorporated banks currently providing VA custodian services may need to obtain a licence or registration under the new regime. Where relevant regulated entities have already undergone the SFC's or the HKMA's assessment process in relation to their VA custodian services and are already engaged in providing VA custodian service, we will introduce an expedited approval process for them.

Licensing Fees

2.44 A licence for VA custody is more complicated than a typical licence under the SFO given the additional technical elements it involves, and will require more resources for the SFC to consider and process such an application. Following the "user-pays" principle, we propose a higher licensing fee for VA custodian service providers licensed by or registered with the SFC, reflecting the complexity of the licensing applications. For reference, the application fee for an application by a licensed corporation for Type 3 regulated activity

²⁷ <https://apps.sfc.hk/edistributionWeb/gateway/EN/circular/intermediaries/licensing/doc?refNo=25EC2>

under the SFO is \$129,730 and the annual fee is \$129,730 and it is proposed that the licensing application fee and annual fee would be at least the amounts currently applicable to Type 3 regulated activity.

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)?

Prohibition

2.45 To prevent the investing public from being exposed to risks associated with unregulated VA custodian activities, we propose to prohibit any person from actively marketing, whether in Hong Kong or elsewhere, to the public of Hong Kong, or holding out as providing in Hong Kong, VA custodian services, unless the person is licensed by or registered with the SFC for providing the VA custodian services.

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?

Powers of the Regulatory Authorities

2.46 Similar to the existing arrangement under the SFO in relation to banks conducting securities business, the SFC will be the standard setter for regulatory requirements applicable to licensed and registered VA custodian service providers.

2.47 The SFC, being the licensing and registration authority, will also be empowered to impose licensing and registration conditions, and/or add to, vary or modify existing conditions (after consultation with the HKMA in the case of imposition, addition, variation or modification of registration conditions), enter licensees’ business premises for conducting routine inspections and to investigate into suspected non-compliance with statutory and regulatory requirements by licensed VA custodian service providers. In addition, the SFC will be empowered to impose disciplinary

sanctions (including civil penalty and suspension or revocation of licence or registration) against non-compliance with statutory and regulatory requirements by all licensed or registered VA custodian service providers.

- 2.48 The HKMA, on the other hand, will be the frontline regulator for banks and SVFs in respect of VA custodian business and will be empowered to supervise the VA custodian business of banks and SVFs registered for VA custodian services. Specifically, the HKMA will have the powers to enter registered entities' business premises for conducting routine inspections and to investigate into suspected non-compliance with statutory and regulatory requirements.
- 2.49 Given the potential interface of a licensed or registered VA custodian service provider with other businesses (e.g. VATPs or VA dealing service providers, banks, other institutions regulated under the AMLO), the SFC / the HKMA will be able to obtain information from relevant authorities for the purpose of investigating into licensees or registrants' suspected non-compliances.

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

Sanctions

- 2.50 To achieve the necessary deterrent effect and to ensure regulatory parity among different regimes relating to VA activities, we propose that the sanctions under the proposed licensing regime should make reference to those applicable to VATPs under the AMLO.
- 2.51 In particular, we propose that –
- (a) any person carrying out, holding out as carrying out and actively marketing a regulated VA custodian service without a licence or registration will be liable, on conviction on indictment, to a fine of \$5 million and to imprisonment for seven years;
 - (b) any person knowingly issuing an advertisement relating to an unlicensed or unregistered person's provision of VA custodian

services will be liable to a fine at level 5 (currently at \$50,000) and to imprisonment for six months;

- (c) non-compliance of a licensee/registrant with the statutory AML/CFT requirements will be liable, on conviction on indictment, to a fine of \$1 million and to imprisonment for two years;
- (d) any person engaging in fraudulent or deceptive behaviour in transactions involving VA will be liable, on conviction on indictment, to a fine of \$10 million and to imprisonment for 10 years;
- (e) any person making fraudulent or reckless misrepresentations for the purpose of inducing another person to engage in a transaction involving VA will be liable, on conviction on indictment, to a fine of \$1 million and to imprisonment for seven years; and
- (f) a licensee or registrant be subject to suspension or revocation of license or registration, reprimand, remedial order and/or a pecuniary penalty (not exceeding \$10,000,000), for misconduct (e.g. contravening other regulatory requirements) or fitness-and-properness issues.

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

Statutory Appeal

2.52 With reference to the Anti-Money Laundering and Counter Terrorist Financing Review Tribunal, we propose that a review tribunal mechanism be put in place under the proposed licensing regime for VA Custodian service providers so as to handle appeals against the decisions to be made by the SFC or the HKMA in implementing the regime.

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?

CHAPTER 3

NEXT STEPS

- 3.1 We welcome comments from the public and sectors concerned to facilitate us in taking forward the legislative exercise. Respondents are invited to offer their comments on the proposal set out in this consultation document by 29 August 2025.
- 3.2 Taking into account the comments to be collected, and subject to the progress of the preparatory work, we aim to introduce a bill on the proposed licensing regime for VA custodian service providers into the Legislative Council as soon as practicable.

Overview of Consultation Questions

- 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?**
- 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.**
- 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.**
- 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.**

- (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?**
 - (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.**
- Q5 What are your comments on the proposed exemptions? Would there be other exemptions that are necessary?**
- Q6 Do you have any comments on the proposed scope of allowed activities?**
- Q7 Do you have any comments on the types of VAs that a VA custodian service provider should not provide custodian services for?**
- Q8 Do you have any comments on the scope of individual licence and engagement as relevant individuals for providing VA custodian service?**
- 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?**
- 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?**
- Q11 Should other regulatory requirements be added to mitigate the risks of VA custodian services?**

- Q12 What are your comments on the proposed transitional arrangement for the licensing regime for VA custodian service providers?**
- 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)?**
- 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?**
- Q15 Do you agree that the SFC and the HKMA should be provided with the proposed powers?**
- Q16 Do you agree with the proposed sanctions, which are comparable to those under the existing regulatory regimes for VATPs?**
- 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?**

- End -