

The Hong Kong Chartered Governance Institute

Submission on:

The Hong Kong Monetary Authority

Discussion Paper on Crypto-assets and Stablecoins

Date: 29 March 2022

By Email Only: stablecoin_feedback@hkma.gov.hk

The Hong Kong Monetary Authority
55th Floor, Two International Finance Centre
8 Finance Street, Central
Hong Kong

Dear Sirs,

Discussion Paper on Crypto-assets and Stablecoins

We refer to the Hong Kong Monetary Authority's (HKMA's) 'Discussion Paper on Crypto-assets and Stablecoins' of January 2022 (**Discussion Paper**). Terms and expressions used under this submission (**Submission**) are as defined under the Discussion Paper.

About HKCGI

The Hong Kong Chartered Governance Institute (**HKCGI**), formerly known as The Hong Kong Institute of Chartered Secretaries (**HKICS**), is the only qualifying institution in Hong Kong and the Mainland of China for the internationally recognised Chartered Secretary and Chartered Governance Professional qualifications.

With over 70 years of history and as the China Division of The Chartered Governance Institute (**CGI**), the Institute's reach and professional recognition extends to all of CGI's nine divisions, with more than 40,000 members and students worldwide. HKCGI is one the fastest growing divisions of CGI, with a current membership of over 6,800, 300 graduates and 3,000 students with significant representations within listed companies and other cross-industry governance functions.

Believing that better governance leads to a better future, HKCGI's mission is to promote good governance in an increasingly complex world and to advance leadership in the effective governance and efficient administration of commerce, industry and public affairs. As recognised thought leaders in our field, the Institute educates and advocates for the highest standards in governance and promotes an expansive approach which takes account of the interests of all stakeholders.

General support for the HKMA's adoption of a risk-based approach

Our Institute generally supports, from the governance perspective, the HKMA's proposed adoption of a risk-based approach (**RBA**) to address the various risks posed by crypto-assets to users and the financial system while embracing the potential benefit of financial innovations as set out under the Discussion Paper. We agree that while, at present, there are no material risks to financial stability there could be increasing risks as this asset class develops and interacts with the traditional financial system. Regulation of crypto-assets is an important international governance topic and Hong Kong regulators should plan for the emerging risks by determining the scope of intended regulation and thereafter the tool and related legislative amendments, as necessary.

Discussion questions

- 1. Should we regulate activities relating to all types of stablecoins or give priority to those payment-related stablecoins that pose higher risks to the monetary and financial systems while providing flexibility in the regime to make adjustments to the scope of stablecoins that may be subject to regulation as needed in the future?**

We agree with the HKMA that an RBA should be adopted with regulations focused on payment-related stablecoins with particular attention on asset-linked stablecoins rather than algorithm-based stablecoins at this stage.

- 2. What types of stablecoin-related activities should fall under the regulatory ambit, e.g. issuance and redemption, custody and administration, reserves management?**

We have no issue with the HKMA's views under the discussion question. The approach, for now, must be to address the associated vulnerabilities identified by the FSB. The caveat is that these may not be exhaustive and that regulations should be scoped to provide flexibility to cover future emergent vulnerabilities in a fast and efficient manner without stifling market developments through over-regulation. The international best practices as they emerge over time should also be considered.

- 3. What kind of authorisation and regulatory requirements would be envisaged for those entities subject to the new licensing regime?**

We agree with the HKMA that this will be dependent on the service offerings and should cover matters including authorisation requirements; prudential requirements, including adequate financial resources and liquidity requirements; fit and proper requirements on management and ownership; maintenance and management of reserves of backing assets; systems, controls, governance and risk management requirements; AML/CFT requirements; redemption requirements; financial reporting and disclosure; safety, efficiency and security requirements; and settlement finality. In addressing these matters, especially on the AML/CFT requirements, please note that our members have been recognised under the 2018 Hong Kong National Risk Assessment submitted to FATF to occupy senior positions with major trust and corporate service providers (TCSPs) which are licensed persons that could support regulatory efforts, as appropriate.

- 4. What is the intended coverage as to who needs a licence under the intended regulatory regime?**

We agree with the HKMA's views that the entity must be incorporated in Hong Kong and hold the relevant licence. This approach is for effective HKMA regulation which requires a nexus with Hong Kong for regulatory supervision and enforcement for market integrity.

- 5. When will this new, risk-based regime on stablecoins be established, and would there be regulatory overlap with other financial regulatory regimes in Hong Kong, including but not limited to the SFC's VASP regime, and the SVF licensing regime of the PSSVFO?**

We agree with the HKMA that overlap of regulations can be worked out with the Government and other financial regulators, as well as others stakeholders and interested parties. It is more important for regulatory arbitrage to be avoided. For example, if certain regulatory functions are

vested with several regulators, they could be coordinated by a lead regulator. Various regulatory models need to be considered on this new regulatory topic. It is important to allow for innovation, with an effective RBA and efficient implementation and enforcement.

- 6. Stablecoins could be subject to run and become potential substitutes for bank deposits. Should the HKMA require stablecoin issuers to be AIs under the Banking Ordinance, similar to the recommendations in the Report on Stablecoins issued by the US President's Working Group on Financial Markets?**

We agree that there should be references drawn from FSB and BIS for stablecoins. If the assessment under an RBA is that additional prudential requirements should be required, we will support the approach. The related issue is that if regulations are not balanced to allow for innovation, this can potentially drive business offshore. There should also be related investor education of the risks posed by unregulated activities.

- 7. Would the HKMA also have plan to regulate unbacked crypto-assets given their growing linkage with the mainstream financial system and risk to financial stability?**

We agree with HKMA's views. Please note that under the VASP licensing regime, licensed TCSPs have a role to provide support to the licensed activities. We look forward to dialogue as to how to support the regulatory approaches, as appropriate

- 8. For current or prospective parties and entities in the stablecoins ecosystem, what should they do before the HKMA's regulatory regime is introduced?**

We agree with HKMA's views that it is for the industry players to provide feedback for HKMA's consideration and to highlight issues that they believe may be relevant to them.

If there are any questions, please feel free to reach out to Ellie Pang FCG HKFCG, Chief Executive, HKCGI or Mohan Datwani FCG HKFCG(PE), Deputy Chief Executive, HKCGI at 2881 6177 or research@hkcgi.org.hk.

Yours sincerely

For and on behalf of
The Hong Kong Chartered Governance Institute

Ernest Lee FCG HKFCG(PE)
President