The Hong Kong Chartered Governance Institute

Submission

The Securities and Futures Commission (SFC)

Consultation Paper on Proposed Amendments to the Securities and Futures Ordinance and the Anti-Money Laundering and Counter-Terrorist Financing Ordinance Relating to the Use of Certain Titles

The Hong Kong Chartered Governance Institute 香港公司治理公會
(Incorporated in Hong Kong with limited liability by guarantee)
3/F, Hong Kong Diamond Exchange Building, 8 Duddell Street, Central, Hong Kong
Tel: (852) 2881 6177 E: ask@hkcgi.org.hk W: hkcgi.org.hk

6 August 2025

Submission on Proposed Amendments to the Securities and Futures Ordinance and the Anti-Money Laundering and Counter-Terrorist Financing Ordinance Relating to the Use of Certain Titles

[Words and expressions used herein shall have the meanings set out under the Consultation Paper.]

About HKCGI

The Hong Kong Chartered Governance Institute (HKCGI) is the sole accrediting body in Hong Kong and the Chinese mainland for the globally recognised Chartered Secretary and Chartered Governance Professional qualifications. Formerly known as The Hong Kong Institute of Chartered Secretaries (HKICS), HKCGI is the Hong Kong/China Division of The Chartered Governance Institute (CGI).

With a legacy of over 75 years, HKCGI has established itself as a trusted and reputable professional body in the region. Its influence extends to CGI's global network of around 40,000 members and students, making it one of its fastest-growing divisions. HKCGI's community comprises about 10,000 members, graduates, and students, with significant representation in listed companies and diverse governance roles across various industries.

Guided by the belief that governance leads to better decision-making and a better world, HKCGI is committed to advancing governance in commerce, industry, and public affairs. It achieves this through education, thought leadership, advocacy, and active engagement with its members and the broader community. As a recognised thought leader, HKCGI promotes the highest standards of governance while advocating for an inclusive approach that considers the interests of all stakeholders and ensures that every voice is heard and valued.

Overall Support

HKCGI supports the restriction on the use of certain titles by any person calculated to give the impression that a business or operation carried on by the person is an SFC-regulated exchange or clearing house, or an SFC-licensed VATP, when it is not so regulated or licensed; or imply that a business or operation carried on by the person is associated with an established or well-known exchange, clearing house, VATP, or other similar operation (whether located in Hong Kong or elsewhere, and whether regulated or not), when it is not so associated.

The SFC's supervision of virtual asset activities since 2016, as well as the introduction of the 2023 licensing regime for VATPs under the AMLO, reflect a thoughtful and structured response to risks exposed by significant market failures, including Luna, Terra, and FTX. The SFC's emphasis on enhanced oversight, enforcement, and public education is both timely and appropriate. The proposed amendments is another development that contributes to protecting investors, which aligns with our long-standing advocacy for market integrity, regulatory clarity, and investor protection.

That is, by expanding the scope of restricted titles and introducing corresponding provisions under both the SFO and the AMLO, the proposals provide the SFC with enhanced tools to deter the misuse of market-sensitive terminology. This is especially relevant given the increasing sophistication of virtual asset businesses and the ease with which misleading affiliations can be implied through naming strategies.

Response to Consultation Questions

Question 1: Do you agree with the proposal to amend section 34 of the SFO?

Yes. We note the limitations identified under paragraph 11 of the Consultation Paper. Terms such as 'trading platform' or 'trading centre' are now commonly used in place of 'exchange' but carry similar implications. The scope also does not encompass commonly used terms for regulated financial products such as 'virtual assets', 'digital assets', 'cryptoassets', 'securities', and 'derivatives', nor titles related to clearing operations, including 'clearing house' or 'clearing facilities'. As the SFO primarily governs securities and futures, section 34 does not extend to virtual asset operations outside this scope, which fall under the AMLO and are not subject to a comparable restriction. Additionally, Section 34 does not address the use of names or acronyms that misleadingly suggest affiliation with recognised exchanges, clearinghouses, or VATPs, whether regulated or not.

For investor protection and market integrity, as well as best-in-class regulation, HKCGI supports the proposed expansion of section 34 of the SFO. The inclusion of contemporary and commonly used terms, such as 'trading platform', 'digital asset', 'cryptoasset', and 'derivatives', effectively addresses emerging risks arising from developments in the financial and virtual asset markets. The amendments will enhance the statutory framework's effectiveness in deterring entities from misleading the public regarding their regulatory status or affiliations.

Question 2: Do you agree with the proposal to add a new provision under Part 5B of the AMLO?

Yes. HKCGI agrees with the proposed introduction of a new provision under the AMLO that mirrors the intent of section 34 of the SFO. Given that virtual asset trading platforms may fall under either or both regulatory regimes, depending on whether the underlying virtual assets are classified as securities, we consider the dual approach both necessary and coherent. The proposed addition under Part 5B will ensure consistent investor protection regardless of the regulatory classification of the virtual asset.

Question 3: Do you have any comments or concerns about any of the proposed titles set out in Table A or Table B?

We support the list of restricted titles set out in both Table A and Table B. In our view, the titles selected reflect those most likely to create confusion or give rise to perceived regulatory legitimacy. The inclusion of broad and emerging terms such as 'virtual asset', 'digital currency', 'clearing house', and 'trading platform' is both justified and timely. We also support the SFC retaining discretion to assess names that may "closely resemble" restricted titles on a case-by-case basis, as this allows for regulatory nuance while upholding the principle of investor protection.

Question 4: Do you have any other comments regarding the proposals discussed in paragraphs 12 to 16?

HKCGI recommends that, following legislative enactment, the SFC issue implementation guidance to assist market participants with compliance. This may include:

- Clarifying the process for applying for authorisation to use a restricted title;
- Providing illustrative examples of what may constitute 'closely resembling' terms;
- Outlining transitional arrangements for pre-existing entities; and
- Offering clarity on how the SFC will consider any defence in practice.

We also support continued investor education campaigns to highlight the risks of engaging with unlicensed VATPs and to reinforce the value of verifying regulatory credentials.

If you have any questions, please do not hesitate to contact Ellie Pang FCG HKFCG(PE), 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

David J Simmonds FCG HKFCG
President