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Official Statements Highlight Careful Approach to Digital Assets in Hong Kong and Singapore

The approach regulators all over the world have taken and are taking to virtual assets has come under intense scrutiny in recent months, following the demise of some high-profile names in the sector.¹ Hong Kong and Singapore's financial authorities have recently brought forward some ideas on different aspects of how the market should develop.

"An effective regulatory framework must ensure that crypto-asset activities posing risks similar to traditional financial activities are subject to the same regulatory outcomes, while taking account of the novel features of crypto-assets and harnessing their benefits," Julia Leung, the Deputy Chief Executive Officer and Executive Director, Intermediaries of Hong Kong's Securities and Futures Commission, said² in the keynote address at Hong Kong Fintech Week 2022.

"The basic principle is "same activity, same risks, same regulation", such that digital assets performing similar functions to traditional products should be subject to similar regulations. This is exactly what we and other regulators in Hong Kong are doing," Eddie Yue, Chief Executive, Hong Kong Monetary Authority, said³

when opening the same event. Any thoughts about the regulation of the virtual assets sector come at an opportune time. Investors are looking to regulators and professionals for leadership in dealing with the complexities of this youthful industry, especially when an investment goes south and they end up having to deal with an undesirable contentious situation.

Regulators and investors are not alone, however, in wanting a system that offers adequate protection for the vast majority of market participants. Many providers would also welcome proper rules. In the absence of international agreement on regulatory standards for cryptocurrencies and digital assets generally, they want to work with local regulators to have real input into the frameworks that are produced.⁴

¹ Georgina Lee, "Hong Kong's leading crypto retail operator says it ceases trading as FTX fallout roils sector," Reuters (November 18, 2022): <https://www.reuters.com/technology/hong-kongs-leading-crypto-retail-operator-says-it-ceases-trading-ftx-fallout-2022-11-18/>

² Julia Leung, Deputy Chief Executive Officer and Executive Director, Intermediaries, "Embracing Innovation, Regulation and the Future of Finance," Keynote address at Hong Kong FinTech Week 2022 (October 31, 2022), page 1: https://www.sfc.hk/-/media/EN/files/COM/Speech/HKFW-Speech---Eng_20221031.pdf

³ Eddie Yue, Chief Executive, Hong Kong Monetary Authority, "Innovation in action - looking back to look forward," Opening Keynote at the Hong Kong FinTech Week 2022 (October 31, 2022): <https://www.hkma.gov.hk/eng/news-and-media/speeches/2022/10/20221031-1/>

⁴ "Hong Kong regulators supportive of compliant security tokens," Ledger Insights (September 20, 2022): <https://www.ledgerinsights.com/hong-kong-security-tokens/>

The Hong Kong government's ideas, in the form of a policy statement⁵ from the Financial Services and the Treasury Bureau, referred to the possibility of making exchange traded funds of virtual assets available to retail investors. "Apart from the existing requirements for ETFs, virtual asset futures ETFs will also be subject to additional requirements related to their management company, investment strategy, disclosure and investor education," Julia Leung said in her Hong Kong FinTech Week 2022 keynote address.⁶

Around the same time, the Monetary Authority of Singapore (MAS) launched consultations on what form digital token payment services should take⁷ and the oversight they need, and how it proposed to regulate stablecoin-related activities.⁸

While this may sound like the opening up of a brave new world, any initiatives are unlikely to happen too soon. One might expect regulation of the sector to ramp up quickly, especially in light of high-profile business collapses. The reality is, however, that financial product regulation takes time as regulators strive to implement the right rules and requirements that will protect the vast majority of public investors.

Hub Competitors

Both Hong Kong and Singapore are vying to be the virtual assets hub in Asia.⁹ However, the fact of the matter is that while investors may welcome speedy regulation and policy making, they also want to have confidence in regulatory frameworks.¹⁰ It points clearly to the need for cross-border cooperation between regulators, not

least because investors can access their holdings from anywhere around the world with the help of an internet connection. There are examples of the work being done to make cross-border regulation happen.¹¹

The Hong Kong Financial Services and the Treasury Bureau's policy statement looked "towards developing a vibrant sector and ecosystem for Virtual Assets (VA) in Hong Kong".¹² As well as raising the possibility of making exchange traded funds made up of VA available to retail investors, the document also said: "To facilitate adoption and enhance investor protection, the Government is open to future review on property rights for tokenised assets and the legality of smart contracts, so as to provide a solid legal foundation for their development,"¹³ and noted that the Hong Kong Monetary Authority had already issued a discussion paper on stablecoins,¹⁴ in particular the governance, stabilisation and redemption mechanisms they required as part of an "appropriate regulatory system".¹⁵

New Licensing Framework

The Hong Kong government's policy statement also referred to the creation of a licensing regime for VA service providers and unveiled three pilot projects: NFT issuance for Hong Kong Fintech Week 2022, which took place at the end of October; issuing Government Green bonds in token form that institutional investors could subscribe to and e-HKD, which it described as "the potential 'backbone' and anchor bridging legal tender and VA, offering price stability and confidence needed to empower more innovations".¹⁶

⁵ "Policy Statement on Development of Virtual Assets in Hong Kong," Financial Services and the Treasury Bureau (October 31, 2022): https://gia.info.gov.hk/general/202210/31/P2022103000454_404805_1_1667173469522.pdf

⁶ Julia Leung, Deputy Chief Executive Officer and Executive Director, Intermediaries, "Embracing Innovation, Regulation and the Future of Finance," Keynote address at Hong Kong FinTech Week 2022 (October 31, 2022), pages 3-4: https://www.sfc.hk/-/media/EN/files/COM/Speech/HKFW-Speech---Eng_20221031.pdf

⁷ "Proposed Regulatory Measures for Digital Payment Token Services," Monetary Authority of Singapore (October 2022): <https://www.mas.gov.sg/-/media/MAS/News-and-Publications/Consultation-Papers/2022-Proposed-Regulatory-Measures-for-DPT-Services/Consultation-Paper-on-Proposed-Regulatory-Measures-for-Digital-Payment-Token-Services.pdf>

⁸ "Proposed Regulatory Approach for Stablecoin-Related Activities," Monetary Authority of Singapore (October 2022): https://www.mas.gov.sg/-/media/MAS-Media-Library/publications/consultations/PD/2022/Consultation-on-stablecoin-regulatory-approach_FINALISED.pdf

⁹ "Hong Kong unveils policies to develop virtual-assets industry challenging Singapore for hub status," (October 31, 2022): <https://www.scmp.com/business/article/3197838/hong-kong-unveils-policies-develop-virtual-assets-industry-challenging-singapore-hub-status>

¹⁰ "Crypto Survey Finds Majority of Investors Welcome Regulation," (November 10, 2022): <https://www.bloomberg.com/news/articles/2022-11-10/most-crypto-investors-want-government-regulation-survey-shows#xj4y7vzkg>

¹¹ "International Regulation of Crypto-asset Activities: A proposed framework – questions for consultation," Financial Stability Board (October 11, 2022): <https://www.fsb.org/2022/10/international-regulation-of-crypto-asset-activities-a-proposed-framework-questions-for-consultation/>

¹² "Policy Statement on Development of Virtual Assets in Hong Kong," Financial Services and the Treasury Bureau (October 31, 2022), page 1: https://gia.info.gov.hk/general/202210/31/P2022103000454_404805_1_1667173469522.pdf

¹³ Ibid

¹⁴ "Discussion Paper on Crypto-assets and Stablecoins," Hong Kong Monetary Authority (January 2022): <https://www.hkma.gov.hk/media/eng/doc/key-information/press-release/2022/20220112e3a1.pdf>

¹⁵ "Policy Statement on Development of Virtual Assets in Hong Kong," Financial Services and the Treasury Bureau (October 31, 2022): https://gia.info.gov.hk/general/202210/31/P2022103000454_404805_1_1667173469522.pdf

¹⁶ Ibid

The government said its VA policy aimed “to promote the sustainable development of financial services across the whole VA value chain, covering issuance of VA, tokenisation, trading and settlement platforms, financing and asset management, and custody etc”.¹⁷

Executives from the sector welcomed the government’s invitation to global banking and VA professionals to join with it in taking forward financial innovation that would be underpinned by a “clear, agile and facilitating regulatory environment that, adhering to best international standards international standards and practices”.¹⁸

One said his bank would be interested in developing VA products and services for retail customers in Hong Kong that were “properly sold, properly monitored”.¹⁹

Extensive Consultation

The MAS’s consultation is covering consumer access, including whether the size of someone’s digital assets should be considered in the assessment of whether or not they are an accredited investor and the role of borrowing to fund digital asset transactions; business conduct; managing technology and cyber risks; market integrity and implementation.

The document also took the opportunity to emphasise Singapore’s regulatory credentials. “MAS will adopt a risk-focused approach to regulating the digital asset ecosystem,” it said. “To facilitate innovation in digital assets, regulations need to be clear and proportionate to the risks posed,” the consultation document on digital token payment systems noted.²⁰ It added that “support for a digital asset ecosystem does not mean support for cryptocurrency speculation” and discouraged consumers from getting involved in the practice.²¹ It said it had looked at stopping cryptocurrency service providers, including trading platforms, from offering their services to consumers, but had decided that any ban would be ineffective because of the cross-border nature of these services.²²

These are positive regulatory moves from Hong Kong and Singapore, though more like opening statements rather than firm directions of travel as it takes time to bring new financial products to market. Regulating them in a robust manner that does not choke off innovation is also a complex task. Reputable service providers and investors should welcome an approach that looks to protect everybody involved. They will also want to ensure they will be ready to take advantage of any new opportunities.

¹⁷ Ibid

¹⁸ Ibid

¹⁹ Enoch Yiu, “Standard Chartered CEO praises Hong Kong on virtual-asset trading moves, calls on city to ‘scrap’ all travel curbs,” South China Morning Post (November 8, 2022): <https://www.scmp.com/business/article/3198688/standard-chartered-ceo-praises-hong-kong-virtual-asset-trading-moves-calls-city-scrap-all-travel>

²⁰ “Proposed Regulatory Measures for Digital Payment Token Services,” Monetary Authority of Singapore (October 2022): <https://www.mas.gov.sg/-/media/MAS/News-and-Publications/Consultation-Papers/2022-Proposed-Regulatory-Measures-for-DPT-Services/Consultation-Paper-on-Proposed-Regulatory-Measures-for-Digital-Payment-Token-Services.pdf>

²¹ Ibid

²² Ibid

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JASON HO

Asia Head of Capital Solutions
Corporate Finance & Restructuring
+852 3768 4682
j.ho@fticonsulting.com

KENNETH FUNG

Senior Managing Director
Corporate Finance & Restructuring
+852 3768 4617
kenneth.fung@fticonsulting.com

STEVE MCNEW

Global Leader of Blockchain and Digital Assets
Technology
+1 936 232 9994
steve.mcnew@fticonsulting.com

ANNA BLEAZARD

Managing Director
Financial Compliance
+65 6506 7688
anna.bleazard@fticonsulting.com

ALEX WONG

Asia Head of Structured Solutions
Corporate Finance & Restructuring
+852 3768 4596
a.wong@fticonsulting.com