



香港財務策劃師學會  
INSTITUTE OF FINANCIAL PLANNERS OF HONG KONG

**IFPHK's Response to the Hong Kong Monetary  
Authority's  
Discussion Paper on Crypto-assets and  
Stablecoins**

**March 2022**

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## Institute of Financial Planners of Hong Kong (IFPHK) - Profile

### **Background**

IFPHK was established in June 2000 as a non-profit organization for the fast-growing financial services industry. It aims to be recognized in the region as the premier professional body representing financial planners dedicated to upholding the highest professional standards.

The Institute is the sole licensing body in Hong Kong authorized by Financial Planning Standards Board Limited to grant the much-coveted and internationally-recognized CFP® Certification and AFP® Certification to qualified financial planning professionals in Hong Kong and Macau.

Currently there are more than 203,000 CFP certificants in 26 countries/regions; the majority of these professionals are in the U.S., Canada, China, Australia and Japan, with approximately 4,100 CFP certificants in Hong Kong.

IFPHK has 7,400 members in Hong Kong including 1,200 Qualified Retirement Adviser (QRA) holders; and represents financial planning practitioners in diverse professional backgrounds such as banking, insurance, independent financial advisory, stock broking, accounting, and legal services.

### **IFPHK's interest in this consultation**

As the leading professional body for the welfare of the financial planning industry, the IFPHK actively responds to policy changes that affect the industry or the financial system as a whole. In 2009, we commented on the Securities and Futures Commission (SFC) proposal put forward in the wake of the Lehman Brothers Minibond Saga that suggested ways to better protect the investing public. In 2010, the IFPHK submitted a response to the consultation paper on establishing an Investor Education Council and a Financial Dispute Resolution Centre. In 2014, the institute responded to the Consultation Document on developing an effective resolution regime in Hong Kong. In 2015, it commented on Hong Kong's Financial Competency Framework and Hong Kong's Strategy for Financial Literacy.

Though FinTech is not the expert area of IFPHK, we did provide comments in Consultation Papers on technology-related proposals. We responded to Consultation Paper on Online Distribution and Advisory Platforms in 2017. In 2020, we provided our views on a Listing Regime for Companies from Emerging and Innovative Sectors and WVR structure. A list of IFPHK responses to various consultation papers can be found on our website (<http://www.ifphk.org/ee/importance-of-advocacy>).

Financial planning professionals are dealing with Gen X and millennials clients who have

lived with the internet and are tech-savvy. Development in digital finance and the growing demand from clients on digital assets and related advice mean that financial planning professionals can no longer disregard crypto-assets when going through the financial planning process. More than a quarter (26%) of advisers indicated that they plan to increase their use or recommendation of cryptocurrencies over the next 12 months, according to Financial Planning Association's 2021 Trends in Investing Survey.<sup>1</sup> Robo-advisers currently have over \$100 billion in assets under management (AUM), and the average age of the investors is well under 40.<sup>2</sup> "With most of the public poorly informed about what digital assets are, I find it comforting that more financial advisers are involved in conversations about the topic and the role such assets should or should not have in clients' portfolios," says Dan Moisand, CFP®, practitioner editor of the *Journal of Financial Planning*.<sup>3</sup>

In light of the above, IFPHK is interested in the Consultation Paper and wishes to express its views on the proposed changes.

### **IFPHK's representation**

IFPHK was founded by 30 members ('Founding Members') in order to raise the standards of financial planners and highlight the importance of sound financial planning advice.

IFPHK currently has 32 Corporate Members including banks, independent financial advisors, insurance companies, and securities brokerages. With our Corporate Members providing a full spectrum of the client services and products, IFPHK is well positioned to understand the needs, concerns and aspirations of the financial planning community.

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<sup>1</sup>Survey: More Financial Planners to Explore Cryptocurrencies in the Coming Months as More Clients Express Interest, Demand in Trending Investment, June 1, 2021  
(<https://www.financialplanningassociation.org/press-room/releases-announcements/2021-trends-in-investing-research>),

<sup>2</sup> [Adam Blumberg](#), Why Crypto Is the Next Big Trend in Financial Planning, CoinDesk Insights, Nov 5, 2020

<sup>3</sup> Survey: More Financial Planners to Explore Cryptocurrencies in the Coming Months as More Clients Express Interest, Demand in Trending Investment, June 1, 2021  
(<https://www.financialplanningassociation.org/press-room/releases-announcements/2021-trends-in-investing-research>)

## **Executive Summary**

On 12 January, the Hong Kong Monetary Authority (HKMA) issued a discussion paper on crypto-assets and stablecoins (the “Paper”), inviting views from the industry and public on the relevant regulatory approach. The Paper sets out the HKMA’s thinking on the regulatory approach for crypto-assets particularly payment-related stablecoins. The approach has taken into account, among other things, the international recommendations, the market, and regulatory landscape locally and in other major jurisdictions, and the characteristics of payment-related stablecoins. Members of the public and the industry are welcome to submit their responses on or before 31 March 2022.

Our submission is based on the following principles we always advocate:

### ***Aligning with international best practice***

Financial contagion has been illustrated by the financial crisis, where problems originating in one country quickly spread across the globe. To enable Hong Kong to continue to excel in its status as an international financial centre, we must keep abreast of the development of the international standard. International organizations such as the Financial Stability Board (FSB) and other political and supervisory bodies continue to drive financial services sector reform – both globally and at the local level. Despite crypto assets have not been developed to a level that poses systematic risks, the market size of crypto assets is growing at an alarming rate. Cryptocurrency issues and recently stablecoins are at the forefront of the international regulatory policy agenda. As such, the FSB in October 2020 set out ten high-level recommendations that seek to promote coordinated and effective regulation, supervision, and oversight of Global Stablecoin (GSC) arrangements to address the financial stability risks posed by GSCs. At the local level, different jurisdictions adopt various approaches in addressing such tensions. Most jurisdictions like Hong Kong, Singapore, and UK tended to develop their regulations based upon existing regimes.

### ***Enhancing consumer protection and financial literacy***

As financial products get more complex and sophisticated, it is of utmost importance that investors/consumers are provided with proper and adequate protection under a sound and effective regulatory system. For a market to perform effectively and for consumers to be protected properly, a fundamental understanding of how these products work is essential.

The use of stablecoins is surging rapidly, and regulators have grown increasingly concerned

that they are not, in fact stable, and could lead to a digital-era bank run. The lack of transparency around issuance and distribution of crypto-assets and have resulted in investor losses<sup>4</sup>. There is an upward surge in the number of enforcement actions against crypto assets companies. The knowledge of crypto assets by consumers remains superficial amid its popularity and escalating market sizes. It is the IFPHK's view that improved financial literacy levels on financial innovations will not only allow consumers to make more informed investment decisions but also result in greater consumer appreciation of planning for a long-term financial future – a concept the IFPHK continuously promulgates.

### ***Ensuring a level playing field across the financial services industry***

It should be noted that the key assumption throughout our submissions is that any changes in legislation should be adopted consistently by all financial intermediaries. The IFPHK believes that a failure to implement a consistent approach across the industry could result in significant negative consumer and industry consequences. Regulatory regimes on crypto-assets have been developed step by step in Hong Kong. Given the decentralized and by-sector nature of the regulatory framework, the regulatory responsibilities are again shared by different financial regulators in Hong Kong. It means that coordination between regulators is important to maintain legal clarity and certainty to industry practitioners.

IFPHK supports in principles the proposals set out in the Paper. IFPHK agrees to adopt a risk-based approach. It is consistent with the previous regulatory approach in which regulators try to fit financial innovations into the existing regulatory framework. The regulatory requirements list in the Paper generally aligns with international standards (i.e. FSB recommendations)

Whilst IFPHK concurs with HKMA's actions to fill in the gap in the regulations of stablecoins, there is potential overlap between this regime and others proposed by different regulators, including the VASP regime to be administered by the SFC. Requirements like requiring the licensees to be incorporated in Hong Kong may have significant impacts on those global crypto currency exchanges that currently operate offshore. Although it is expected the proposed regime on stablecoins will be similar to those requirements under the VSAP regime, the HKMA shall consider putting forward details of the requirements as soon as possible to provide legal clarity and certainty.

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<sup>4</sup> International Monetary Fund, The Crypto Ecosystem and Financial Stability Challenges, October 2021.

## The HKMA Consultation

On 12 January, the Hong Kong Monetary Authority (HKMA) issued a discussion paper on crypto-assets and stablecoins (the “Paper”), inviting views from the industry and public on the relevant regulatory approach.

The Paper sets out the HKMA’s thinking on the regulatory approach for crypto-assets particularly payment-related stablecoins. The approach has taken into account, among other things, the international recommendations, the market and regulatory landscape locally and in other major jurisdictions, and the characteristics of payment-related stablecoins. To facilitate the stakeholders in sharing their views, the HKMA has highlighted certain issues in the form of questions and answers in the Paper.<sup>5</sup>

Given the risks, the HKMA sees a need for an appropriate regulatory framework for stablecoins, the objectives of which would be maintaining monetary and financial stability, ensuring investor protection and minimising the risk of regulatory arbitrage. The regulatory regime would adopt:

- i. an agile regulatory approach to ensure the regime can accommodate evolving market developments and relevant international discussions; and
- ii. risk-based and proportionate regulation addressing the key risks presented by stablecoins and prioritising the areas posing greater risks, while allowing room for financial innovation.<sup>6</sup>

The HKMA’s discussion paper and recommendations provide critical insight into the regulator’s plans for the future of crypto-assets in Hong Kong. The new regime will likely be introduced in 2023/2024.

The Discussion Paper contains 8 questions. Questions in the Paper are set out below:

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?

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<sup>5</sup> HKMA Discussion Paper on Crypto Assets and Stablecoins  
<https://www.hkma.gov.hk/eng/news-and-media/press-releases/2022/01/20220112-3>

<sup>6</sup> <https://www.charltonslaw.com/hkma-issues-proposals-for-regulating-payment-related-stablecoins/>

2. What types of stablecoin-related activities should fall under the regulatory ambit, e.g. issuance and redemption, custody and administration, reserves management?
3. What kind of authorisation and regulatory requirements would be envisaged for those entities subject to the new licensing regime?
4. What is the intended coverage as to who needs a licence under the intended regulatory regime?
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?
6. Stablecoins could be subject to run and become potential substitutes of 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?
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?
8. For current or prospective parties and entities in the stablecoins ecosystem, what should they do before the HKMA's regulatory regime is introduced?

Members of the public and the industry are welcome to submit their responses on or before 31 March 2022.



## **IFPHK submission**

The views expressed in this submission paper are not necessarily summaries of the views taken from the industry but may have undergone more independent and critical analysis and consideration by IFPHK as a professional body. As a result, not all the views collected by IFPHK are recorded in this submission paper and neither have all the views expressed in this submission paper been directly endorsed by those industry representatives or members consulted.

Prior to providing our views on the questions stipulated in the Consultation Paper, we wish to point out that the IFPHK's responses are formed upon the following principles:

### **IFPHK's Principles**

#### ***Aligning with international best practice***

Financial contagion refers to "the spread of market disturbances – mostly on the downside – from one country to the other, a process observed through co-movements in exchange rates, stock prices, sovereign spreads, and capital flows".<sup>7</sup> This has been illustrated by the financial crisis, where problems originating in one country quickly spread across the globe. To enable Hong Kong to continue to excel in its status as an international financial centre, we must keep abreast of the development of the international standard. International organizations such as the Financial Stability Board (FSB) and other political and supervisory bodies continue to drive financial services sector reform – both globally and at the local level.

Despite crypto assets have not been developed to a level that poses systematic risks, in 2018 the FSB concluded that crypto assets did not pose a material risk to global financial stability,<sup>8</sup> the market size of crypto assets is growing at an alarming rate. Dollar-tied stablecoins such as Tether token, USD Coin, and Pax Dollar have jumped from \$30 billion in circulation in January to about \$125 billion as of mid-September last year.<sup>9</sup> Cryptocurrency issues and recently stablecoins are at the forefront of the international regulatory policy agenda.

As such, the FSB in October 2020 set out ten high-level recommendations that seek to promote coordinated and effective regulation, supervision, and oversight of Global Stablecoin

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<sup>7</sup> Definitions from Wikipedia

<sup>8</sup> International Monetary Fund, Chapter 2 The Crypto Ecosystem and Financial Challenges, October 2021

<sup>9</sup> Eric Lipton, Ephrat Livni and Jeanna Smialek, Regulators Racing Toward First Major Rules on Cryptocurrency, New York Times, 23 Sept 2021.

(GSC) arrangements to address the financial stability risks posed by GSCs. IMF also issued a paper in 2021 to provide recommendations on regulating crypto ecosystem. Another global organization International Organization of Securities Commissions (IOSCO). In October 2021, CPMI and IOSCO published for public consultation preliminary guidance that confirms and clarifies that stablecoin arrangements should observe international standards for payment, clearing and settlement systems<sup>10</sup>. At its meeting on 9 March, the IOSCO Board agreed to establish a Board-level Taskforce to spearhead IOSCO's engagement on matters related to Fintech (including cryptos). The new Task Force will replace the Fintech Network (of which FPSB was a part) and signals an important strategic shift in response to the magnitude of the regulatory challenges and the need to ensure IOSCO remains effective and responsive to the deepening challenges of technological change in financial markets. The International Monetary Fund also issues policy recommendations on regulating the crypto ecosystem, which includes suggesting that national regulations should prioritize the implementation of global standards applicable to crypto assets.<sup>11</sup> (Please refers to Appendix 2)

At the local level, there is always a tension between innovation in traditional centralized payment systems and the innovation of new kinds of crypto-assets such as stablecoins. Different jurisdictions adopt various approaches in addressing such tensions. One extreme is China in which cryptocurrency is banned. Most jurisdictions like Hong Kong, Singapore, and UK tended to develop their regulations based upon existing regimes. Other countries, such as the United States and several EU member states adopted a more aggressive approach. They had more comprehensive plans to introduce new, bespoke legislation covering all types of crypto-assets. The MiCA can define worldwide rules for the governance and regulation of digital, blockchain-based assets, as well as the strong desire to do so. The EU could attract crypto talent, firms, and investments from all over the globe by enacting clear standards and long-term legal stability. The President's Working Group (PWG) on Financial Markets issued a report on stablecoins in November. The PWG recommends Congress pass legislation to strengthen oversight of stablecoins, likely requiring nonbank issuers to follow rules like banks and to clarify responsibility for different regulators. We have summarized some of the actions taken by different jurisdictions in Appendix 1.

### ***Enhancing consumer protection and financial literacy***

As financial products get more complex and sophisticated, it is of utmost importance that investors/consumers are provided with proper and adequate protection under a sound and

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<sup>10</sup> HKMA, Discussion paper

<sup>11</sup> *ibid*

effective regulatory system. The IFPHK supports a regulatory system that would facilitate delivering better financial products and services to the benefit of members of the public, as well as protecting them. As already stated, well-informed and educated consumers are the core elements that form a healthy regulatory system. For a market to perform effectively and for consumers to be protected properly, a fundamental understanding of how these products work is essential.

Stablecoins are a digital asset designed to offset the volatility of cryptocurrency, usually by backing the stablecoin's value with that of a traditional currency such as the U.S. dollar. Stablecoins hold potential benefits for both businesses and consumers, allowing them to transfer money and pay for purchases at ultralow transaction costs. They are not exactly “stable” as suggested by the name. The use of stablecoins is surging rapidly, and regulators have grown increasingly concerned that they are not, in fact stable, and could lead to a digital-era bank run. Despite potential gains, the rapid growth and increasing adoption of crypto assets also pose financial stability challenges and pose threats to investor protection. The lack of transparency around issuance and distribution of crypto-assets and have resulted in investor losses<sup>12</sup>. There is an upward surge in the numbers of enforcement actions against crypto assets companies. SEC launched a lawsuit against Ripple, a cryptocurrency company, alleging that it had conducted an “unregistered securities offering” by raising \$1.3 billion through sales of a token called XRP. The Justice Department of Japan is investigating possible bank fraud by executives of Tether Ltd. stemming from actions during the early days of its stablecoin cryptocurrency.

The knowledge of crypto assets by consumers remains superficial amid its popularity and escalating market sizes. It is the IFPHK’s view that improved financial literacy levels on financial innovations will not only allow consumers to make more informed investment decisions but also result in greater consumer appreciation of planning for a long-term financial future – a concept the IFPHK continuously promulgates.

The upcoming challenge is how to integrate the knowledge of complex concepts like blockchains and stablecoins into mainstream financial education. Enhance investor education in relation to crypto-assets. IOSCO identifies measures regulators can use to provide educational material to retail investors on the risks of investing in crypto-assets and describes four areas of guidance on the following activities:

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<sup>12</sup> International Monetary Fund, The Crypto Ecosystem and Financial Stability Challenges, October 2021.

1. Developing educational content about crypto-assets
2. Informing the public about unlicensed or fraudulent firms
3. Using a variety of communication channels to inform investors
4. Forming partnerships to develop and disseminate materials<sup>13</sup>

Albeit financial education on crypto-assets is not included in the discussion paper, IFPHK's principle remains that plan on educating the public shall be included in any policy changes.

### ***Ensuring a level playing field across the financial services industry***

It should be noted that the key assumption throughout our submissions is that any changes in legislation should be adopted consistently by all financial intermediaries. The IFPHK believes that a failure to implement a consistent approach across the industry could result in significant negative consumer and industry consequences. The IFPHK is frequently urged by industry professionals to highlight the need for implementing a consistent approach across the industry to establish a 'level playing field' among all financial service practitioners.

Regulatory regimes on crypto-assets have been developed step by step. The Securities and Futures Commission (SFC) in Hong Kong has been operating an opt-in regime for virtual asset (VA) service providers (VASPs) since November 2019. In May 2021, the Financial Services and the Treasury Bureau (FSTB) announced it had completed a public consultation on the VASP regime and would work towards an amendment bill in 2022. On 28 January 2022, HKMA, SFC, and the Insurance Authority issued guidance to banks, securities firms, and insurers looking to undertake activities related to virtual assets. The guidance provides a common framework through which different kinds of mainstream financial service practitioners can engage with virtual assets, digital assets, and cryptocurrency. Given the decentralized and by-sector nature of the regulatory framework, the regulatory responsibilities are again shared by different financial regulators in Hong Kong. It means that coordination between regulators is important to maintain legal clarity and certainty to industry practitioners.

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<sup>13</sup> IOSCO publishes report on education of retail investors regarding risks of crypto-assets  
<https://www.iosco.org/news/pdf/IOSCONEWS587.pdf>

### **Question 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?***

#### **The HKMA's views**

Having balanced relevant factors, and in line with the proportionate principles identified above, HKMA recommends a risk-based approach, under which we intend to focus on activities related to payment-related stablecoins at this stage. Among other things, our particular attention would be placed on asset-linked stablecoins (e.g. to a single fiat currency) rather than algorithm-based stablecoins at this stage, noting that currently, existing stablecoins are mostly asset-linked and predominantly pegged to USD; and compared to algorithm-based stablecoins, asset-linked stablecoins appear to be more prevalent in the market and more likely to be perceived as having the potential to develop into a widely used and acceptable means of payment, thus having a higher potential for being incorporated into the mainstream financial system.

HKMA does not rule out the possibility of regulating other types of stablecoins including but not limited to algorithm-based ones in the future (e.g. having regard to the risks that they may pose to the monetary and financial stability of Hong Kong). Flexibility should therefore be built into the regime to ensure that adjustments could be made ready as needed in the future.

#### **IFPHK's views**

IFPHK agrees to adopt a risk-based approach. It is consistent with the previous regulatory approach in which regulators try to fit financial innovations into the existing regulatory framework. Whilst IFPHK has no concerns on the HKMA's initial target on payment-related stablecoins, we think it is also time to consider how to include other types of stablecoins in the regime in order not to be behind of the curve in the rapid changes in escalating risks surrounding the growth of crypto assets.

### **Question 2**

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

### **The HKMA's views**

By reference to a list of activities of a stablecoin arrangement and associated vulnerabilities identified by the FSB, HKMA proposes that the following activities will need to be licensed by the HKMA either by expanding the scope of the PSSVFO or introducing a new legislation. Given that it is common for more than one entity to be involved in a stablecoin arrangement, it is possible for multiple entities to be required to seek authorisation from the HKMA in a stablecoin arrangement. This is not an exhaustive list and may be further expanded in due course.

(i) issuing, creating or destroying stablecoins: the activity of the issuer minting and burning of stablecoins

(ii) managing reserve assets to ensure stabilisation of the stablecoin value: the activity of managing the reserve assets that are backing the value of the stablecoins and providing custody/trust for these assets

(iii) validating transactions and records: the activity of authorising or verifying the validity of transactions and records

(iv) storing the private keys providing access to stablecoins: the activity of safe-keeping of keys used to digitally sign transaction instructions on behalf of stablecoin holders

(v) facilitating the redemption of stablecoins: the activity of facilitating the stablecoin holders to redeem stablecoins for fiat currencies or other assets

(vi) transmission of funds: the activity of ensuring the correct and final settlement of transactions to minimise default risk of counterparties

(vii) executing transactions in stablecoins: the activity of conducting transactions on behalf of others

### **IFPHK's views**

Cryptocurrency exchanges will likely continue to fall within the VASP regime as their activities are regulated. The HKMA considers that some stablecoins do not technically fit within the definition of an SVF, bringing about a regulatory 'grey' area. IFPHK appreciates the HKMA

sees the need to expand its regulatory framework to ensure that stablecoins, particularly payment-related stablecoins, are appropriately regulated in order to avoid regulatory arbitrage.

Besides, this broad list in the Paper is aligned with the published by the FSB and as such may be viewed as in keeping with international standards. However, we must be cautious of the potential overlap between this regime and others proposed by Hong Kong regulators, including the VASP regime to be administered by the SFC. Confusions on the principal regulators and onerous compliance costs may occur to industry players as a result.

### ***Discussion question 3***

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

#### **The HKMA's views**

By reference to the high-level recommendations of the FSB and the CPMI-IOSCO's proposed application of the PFMI to stablecoin arrangements, the HKMA considers that the following high-level regulatory requirements would be necessary for stablecoin arrangements.

In the process, the HKMA's intention is to apply these requirements to the relevant stablecoin-related activities using a risk-based approach, rather than in a one-size-fits-all manner. As it is common for multiple entities to be involved in different parts of a stablecoin arrangement, such entities could be subject to part or all of the requirements, depending on the actual types of services they offer.

Regulatory requirements	Details of requirements
(i) Authorisation requirements	As mentioned in Q1, certain activities crucial to the operation of a stablecoin arrangement will need to be authorised by the HKMA before they can be undertaken. The HKMA will further develop these authorisation requirements in law and such requirements are expected to be complied with by the relevant licensed institution on an ongoing basis after authorisation to ensure the safety

Regulatory requirements	Details of requirements
	and soundness of the scheme at all times.
(ii) Prudential requirements	Prudential requirements, including adequate financial resources and liquidity requirements Requirements relating to adequacy and effective management of capital and liquidity, to protect users and financial stability.
(iii) Fit and proper requirements on management and ownership	Requirements relating to the fitness and propriety of the controllers (including shareholder controllers and indirect controllers) and senior management of stablecoin arrangements.
(iv) Maintenance and management of reserves of backing assets	Requirements relating to the nature and sufficiency of the stablecoin arrangement's reserve assets to support and stabilise the value of the outstanding stock of stablecoins and also requirements relating to the clarity and enforceability of the legal claims, titles, interests and other rights of holders of the stablecoin in relation to the issuer of the stablecoin and the reserve assets backing it.
(v) Systems, controls, governance and risk management requirements	Requirements relating to a sound risk-management framework for comprehensive management of legal, credit, liquidity, operational, AML and other risks of the stablecoin arrangement. The stablecoin arrangement's ownership structure and operation should allow for clear and direct lines of responsibility and accountability, particularly if it is owned and operated by one or more identifiable and responsible legal entities.
(vi) AML/CFT requirements	Requirements relating to the proper implementation of AML/CFT rules.
(vii) Redemption requirements	The clarity, robustness, and timeliness of the process for



Regulatory requirements	Details of requirements
	converting the stablecoin into other liquid assets.
(viii) Financial reporting and disclosure	Requirements relating to the firms' disclosures to regulator(s) and users and also requirements relating to the rights that firms should provide towards users.
(ix) Safety, efficiency and security requirements	Requirements relating to safeguards against cyber-security, operational and business continuity risks etc.
(x) Settlement finality	A stablecoin arrangement should provide clear and final settlement regardless of the operational settlement method used.

#### **IFPHK's views**

Given that it is common for multiple entities to be involved in different parts of a stablecoin arrangement, the HKMA has noted that such entities could be subject to part or all of the requirements, depending on the services they offer. We also recognize that there is no one-size-fit-all solution on stablecoins. Also, IFPHK has no major comments on the proposals given that it bears similar requirements to the VASP regime.

#### ***Discussion question 4***

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

#### **The HKMA's views**

HKMA's view is that no person shall carry out the activities described in Q2 above in Hong Kong or actively market to the public of Hong Kong such activities as a business unless it is an entity incorporated in Hong Kong and holds a relevant licence granted by the HKMA. In other words, a foreign company/group which intends to carry out, as a business, the relevant regulated activities in Hong Kong or actively markets to the public of Hong Kong such activities will need to incorporate a company under Hong Kong law, and the Hong

Kong-incorporated company would be the entity to apply to the HKMA for a licence and hold that licence if and when granted. A mere Hong Kong branch or office of a foreign corporation is regarded as not meeting the requirement of “an entity incorporated in Hong Kong”. This requirement aims to enable the HKMA to exercise effective regulation on the relevant entities.

### **IFPHK’s views**

It is expected that foreign companies that intend to provide regulated activities in Hong Kong or actively market those activities in Hong Kong to incorporate a company in Hong Kong and apply for a licence to the HKMA under this regime. A mere Hong Kong branch or office of a foreign corporation will be regarded as not meeting the requirement of being “an entity incorporated in Hong Kong”. We agree on the proposals on the basis of our principle of level playing fields. SFC also requires licensed VASPs to be incorporated in Hong Kong, or non-Hong Kong incorporated companies that are registered in Hong Kong under the Company Ordinances.

Notwithstanding of the above, the new regime may have significant implications for those global crypto-exchanges currently offering trading in stablecoins to Hong Kong users from offshore. To provide legal certainty, IFPHK hopes that detailed guidance on the licensing requirements and ongoing regulatory requirements will be issued as soon as possible.

### ***Discussion question 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?***

### **The HKMA’s views**

As a first step, the HKMA would like to seek feedback by way of this paper. IFPHK will take into account the feedback and consider the next steps including assessing the need to issue further documents on specific aspects of the regulatory framework in 2022/23. We aim to introduce the new regime no later than 2023/24.

It should be noted that the proposed way forward is to ensure risks that may be posed by stablecoins are properly addressed through an appropriate regulatory response. The HKMA is aware that there are multiple financial regulatory regimes in Hong Kong as administered by

different financial regulators. Hence, in developing the regulatory regime for stablecoins, the HKMA will work closely with other stakeholders in the HKSAR Government, other financial regulators as well as relevant interested parties to identify possible areas for further collaboration and coordination, and to avoid regulatory arbitrage. These areas would cover possible cases which may be subject to regulation by more than one local financial authority.

### **IFPHK's view**

Given that the regulatory framework is decentralized and by-sectoral, it is envisaged that a crypto asset exchange undertaking transactions in non-stablecoin crypto-assets may expect to be regulated by the SFC under its proposed new VASP regime while being regulated by both the SFC and the HKMA under its stablecoin regime. Hence there may be onerous compliance costs to the exchange if required to regulate and license by two regulators.

### ***Discussion question 6***

***Stablecoins could be subject to run and become potential substitutes of 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?***

### **The HKMA's views**

The HKMA will draw reference from the relevant international standards and recommendations such as those put forth by the FSB and the BIS for stablecoins (e.g. those set out in Q2 and Q3). Given the payment-related nature of stablecoin arrangements, we expect that rules and requirements under the proposed regime would take relevant aspects of Hong Kong's current approach to SVF and payment regulation at a minimum to avoid regulatory arbitrage. Depending on the systemic implication of the stablecoin arrangements, under a risk-based approach, they should be required to be subject to higher prudential requirements (e.g. in terms of capital and liquidity requirements) to ensure protection of users.

### **IFPHK's view**

There is no prudential requirement like those that apply to AIs under the Banking Ordinance. The HKMA expects that the requirements applicable to stablecoin issuers will be like the current regulatory framework for SVF. However, the HKMA suggests that certain stablecoin issuers may be subject to higher prudential requirements than SVF issuers. IFPHK urges the

regulators to put forward more details, as the prudential requirement has a significant impact on the business decision of stablecoin issuers.

### ***Discussion question 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?***

#### **The HKMA's views**

There is a need to continue monitoring the various risks that may be posed by them and take actions as necessary. In May 2021, the HKSAR Government announced that a VASP licensing regime would be implemented by amending the existing AMLO. Certain types of VA activities will be brought under such licensing regime.

As for the HKMA, in discharging its functions of maintaining the monetary, financial and banking stability of Hong Kong, we will soon provide AIs with more detailed regulatory guidance in relation to AIs' business interface with and provision of intermediary services to customers related to crypto-assets. We will continue to monitor the development of crypto-assets closely and maintain a close dialogue with other stakeholders in the HKSAR Government and other financial regulators as well as the relevant international standard-setting bodies on the need to strengthen the regulation of such assets as needed in light of relevant international regulatory developments and to avoid any regulatory arbitrage in these activities.

#### **IFPHK's view**

If the HKMA has a plan to regulate unbacked crypto-assets, IFPHK wishes the HKMA could release the consultation paper as soon as possible so that the industry has sufficient time to prepare for the regime.

### ***Discussion question 8***

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

#### **The HKMA's views**

We encourage current or prospective players in the stablecoins ecosystem to respond to this paper and submit relevant views to us, so that we could take the feedback into account when formulating the regulatory framework. With such input, we aim to finalise our next steps as soon as possible, and introduce the new regime no later than 2023/24. In the meantime, the HKMA will continue to supervise AIs' activities in relation to crypto-assets and implement the SVF licensing regime according to the prevailing supervisory powers and policies.

#### **IFPHK's view**

No further comments

## Appendix 1 - Some latest developments by selected jurisdictions

Jurisdiction	Details
USA	<p>On November 1, 2021, the President's Working Group on Financial Markets (PWG), the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC) released a report (PWG Report) calling for urgent legislative action to limit the issuance of stablecoins to insured depository institutions and to enable prudential regulation of stablecoins to address the risks to the broader financial system.</p>
UK	<p>On 7 January 2021, the UK Treasury issued a consultation and call for evidence (the "Consultation") on the UK regulatory approach to cryptoassets and stablecoins. The Consultation is the second of two measures outlined by the Treasury in March 2020 as part of the UK's response to cryptoassets. The first measure was a consultation on bringing certain categories of cryptoassets into the scope of UK financial promotions regulation.</p> <p>At present, some (but not all) types of virtual currencies are regulated in the UK. In general, the structure and substantive characteristics of a virtual currency will determine whether or not it falls within the UK regulatory perimeter, and if so, which regulatory framework or frameworks will apply. In its Guidance on Cryptoassets,<sup>2</sup> the UK Financial Conduct Authority (FCA) identifies three broad categories of virtual currencies, which are security tokens, E-money tokens and unregulated tokens.</p> <p>In its Guidance, the FCA states that although it recognises these three broad categories of cryptoassets 'they may move between categories during their lifecycle' and assessing whether a particular virtual currency falls within the UK regulatory perimeter 'can only be done on a case-by-case basis, with reference to a number of different factors'. More generally, the Guidance sets out the FCA's views on when virtual currencies fall within the current UK regulatory perimeter.<sup>14</sup></p>

<sup>14</sup> Laura Douglas, Law review, The Virtual Currency Regulation Review: United Kingdom, 2 September 2021

Jurisdiction	Details
Europe	<p>The EU Commission submitted a proposal for crypto asset regulation on September 24, 2020, titled "Markets in Crypto-Assets Regulation" (MiCA). The MiCA will be directly applicable legislation in all EU member states once it is ratified and in force, and it will govern all issuers and service providers engaging with crypto-assets.</p>
Singapore	<p>In Singapore, offers or issuances of stablecoins may be regulated if they constitute capital markets products (e.g., securities or units in a collective investment scheme) under the Securities and Futures Act (Cap. 289) (the "SFA"). The structure and characteristics of a stablecoin would need to be carefully considered to determine whether this is the case. Intermediaries who facilitate offers or issuances of such stablecoins (including operators of platforms on which the stablecoins may be offered, issued and/or traded and those providing financial advice in respect of the stablecoins) may therefore be subject to licensing and other regulatory requirements under the SFA and/or the Financial Advisers Act (Cap. 110) (the "FAA").<sup>15</sup></p> <p>On 17 January 2022, The Monetary Authority of Singapore (MAS) issued guidelines giving effect to MAS' expectations that Digital Payment Token (DPT or more commonly known as cryptocurrency) service providers should not promote their DPT services to the general public in Singapore.</p>
Japan	<p>Japan FSA Seeks to Introduce Restrictions in 2022 to limit the issuance of stablecoins to banks and wire transfer companies. The regulations that will be proposed by Japan's Financial Services Agency (FSA) are an effort to tighten the agency's grip on the stablecoin market to protect consumers from potential risks from asset-backed stablecoins like Tether.</p> <p>The FSA's move mirrors similar proposals in the United States. The legislation will also include steps to prevent money laundering via</p>

<sup>15</sup> Clifford Chance, Stablecoins: A Global Overview OF Regulatory Requirements in Asia Pacific, Europe, the UAE and the US, September 2019.

Jurisdiction	Details
	stablecoins by giving the agency additional oversight over intermediaries such as wallet providers, and also adding additional know-your-customer (KYC) measures. <sup>16</sup>
Australia	<p>Where a stablecoin falls within the definition of a “financial product”, various regulation administered by different regulators may apply, including the requirement to hold an Australian financial services (AFS) licenses. Analysis will be required on a case-by-case basis. It usually applies to stablecoins that has the characteristics of a managed investment scheme, security, and derivative and/or non-cash payment facility.<sup>17</sup></p> <p>If providing advice, dealing, or other intermediary services for a stablecoin deemed to be a financial product, a range of Australian laws apply (including the requirement to hold an AFS license). For example, where a platform deals in stablecoins that are deemed to be financial products, the platform will be considered to be operating a market and a range of Australian laws apply, including the requirement to hold an Australian market license. If transaction processors are part of the clearing and settlement (“<b>CS</b>”) process for such stablecoins, then a CS facility license may be required.</p>

<sup>16</sup> Cheyenne Ligon, Japan Moves to Impose New Regulations on Stablecoin Issuers: Report, Coindesk, 7 December 2021.

<sup>17</sup> Clifford Chance, Stablecoins: A Global Overview OF Regulatory Requirements in Asia Pacific, Europe, the UAE and the US, September 2019.



## Appendix 2 – Main Policy Recommendations by International Monetary Fund

<p>Standards, Supervision, and Data</p>	<ul style="list-style-type: none"> <li>- National regulators should prioritize the implementation of global standards applicable to crypto assets.</li> <li>- Regulators need to control the risks of crypto assets, especially in areas of systemic importance.</li> <li>- Coordination among national regulators is key for effective enforcement and less regulatory arbitrage</li> <li>- Regulators should address data gaps and monitor the crypto ecosystem for better policy decision.</li> </ul>
<p>Stablecoins</p>	<ul style="list-style-type: none"> <li>- Regulations should be proportionate to the risk and in line with those of global stablecoins.</li> <li>- Coordination is needed to implement recommendations in areas of acute risk; enhanced disclosure, independent audit of reserves, fit and proper rules for network administrators and issuers; and more.</li> </ul>
<p>Managing Macro-financial Risks</p>	<ul style="list-style-type: none"> <li>- Enact de-dollarization policies, including enhancing monetary policy credibility; a sound fiscal position; effective legal and regulatory measures; and the implementation of central bank digital currencies</li> <li>- Capital flow restrictions need to be reconsidered with respect to their effectiveness, supervision, and enforcement.</li> </ul>