



EPAA SUBMISSION TO

LEGISLATIVE PROPOSAL TO IMPLEMENT THE REGULATORY REGIME FOR STABLECOIN ISSUERS IN HONG KONG

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Hong Kong

Department:

Hong Kong Monetary Authority

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Legislative Proposal to Implement the Regulatory Regime for Stablecoin Issuers in Hong Kong

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Submission by email to: stablecoin_feedback@hkma.gov

EPAA's Response to "Legislative Proposal to Implement the Regulatory Regime for Stablecoin Issuers in Hong Kong" Consultation Paper

Dear Madam/Sir,

Please find attached the submission of the Emerging Payments Association Asia (EPA Asia) to the "Legislative Proposal to Implement the Regulatory Regime for Stablecoin Issuers in Hong Kong" Consultation Paper ("the HK Stablecoin Consultation Paper") released by the Hong Kong Monetary Authority (HKMA) in December 2023.

EPA Asia's goal is to unify the payments agenda in the region, drive business development and improve the regulatory landscape for all organisations within the payments value chain. We are a community of payments organisations whose goal is to strengthen and expand the payments industry for the benefit of all stakeholders. More information about EPA Asia can be found on our website www.emergingpaymentsasia.org.

Please note, that while we have consulted within our membership, any views expressed in this submission are solely the views of EPA Asia and do not necessarily represent the views of individual contributors, EPA Asia Ambassadors or EPA Asia Members.

General Comments

EPA Asia is broadly supportive of the efforts of the Hong Kong authorities to regulate the issuance of stablecoins and supports HKMA's proactive approach toward enabling stablecoins as a method of payment. This aligns with the growing acceptance of this class of digital asset globally, and the corresponding ambition to provide regulatory clarity around its use.

The EPA Asia also supports the initial regulatory focus on Fiat-Referenced Stablecoins (FRS).

The key feature of stablecoins is the immediacy and finality of settlement of a payment using the stablecoin as a payment settlement asset. The EPA Asia believes that this will provide new payment settlement capabilities, applicable particularly to 'on-chain' activities such as investors buying and selling other virtual assets but not wishing to 'off-ramp' to and from traditional accounts. Such an immediate payment settlement asset may have applications to be '10 times better' than the current payment systems available for domestic and international payment and settlement, increasing the speed, transparency and potentially lowering the cost of such payments.

The HMKA's regulation of potential Fiat-Referenced Stablecoin ('FRS') Issuers provides an opportunity for a wide range of wholesale, corporate, trade and retail use cases (and in our opinion likely higher value transactions) both domestically and cross-border.

Hong Kong is uniquely positioned as its currency is already pegged to the USD and supported by USD reserves. EPA Asia supports the proposed mirroring of such an arrangement in the regulation of FRS Issuers. This could potentially provide opportunities not only for an HKD FRS but also a HKMA-regulated USD FRS. This could be highly competitive if offered by an appropriate Issuer (e.g. a major fully licensed international bank) with respect to the current dominant stablecoins - USDC and USDT.

Response to Consultation Questions

EPA Asia notes the following comments to the questions posed by the Consultation Paper:

Q1. Do you agree with the proposed definition of “stablecoin” and “FRS”?

Providing a clear and concise definition is critical. The definition provided in the Consultation Paper is broadly workable though we do have a few suggestions.

First of all, inclusion of “accepted by the public” as well as some of the earlier discussion, would suggest that wholesale stablecoins are excluded. We would hope this is not the case as we believe that wholesale stablecoins will be an important use case - particularly for enabling cross-border payments.

The specific aspects of the technology e.g. enabling instant final settlement with an immutable record may be a better approach than specifying ‘distributed ledger’, which may not always be the most suitable technology solution, especially given privacy concerns. Similarly, the requirement that the technology is ‘not controlled solely by the issuer’ may be open to interpretation and too restrictive for some stablecoins.

Further, some of the broad terminology used such as “similar technology” and “pool or basket of assets” may require some further elaboration to ensure the regulatory perimeter in the legislation aligns with the policy intent.

Q2. Do you have any comments in relation to the scope of regulated stablecoin activity?

We are broadly comfortable with the scope of the proposed regime, although increasing the scope in the area of ‘intermediaries’ would be beneficial, whether directly in new legislation or indirectly through existing regulations.

For instance, the issuer of stablecoins may not deal directly with the public end-users of a stablecoin but rather manage these exchanges through contracted intermediaries, such as fully licensed banks. If the stablecoin issuer were to have their licence suspended, then the intermediary (in this case, the fully licensed bank) would need to have the obligation to redeem at par and subsequently to recover the funds from the issuer or from the relevant trust.

Q3. Do you agree with the proposed approach of introducing a new piece of legislation to implement the regulatory regime for FRS issuers, and potentially cover the regulatory regime for other VA activities as appropriate in the future?

Both the higher value nature of the FRS regime and the extensibility to other types of stablecoins are key reasons for supporting a new piece of regulation (as opposed to including FRS as a type of SVF, which is focused on low value retail payments).

Q4. Do you agree with the proposed exclusion of issuance of FRS from certain regulatory regimes, such as those for securities and SVFs to avoid subjecting FRS issuer to multiple regulatory regimes?

We are broadly comfortable with the scope of the proposed regime that excludes SVF and creates a regime that will enable other VAs to be regulated in the future. We endorse the approach of “same activity, same risk, same regulation” as critical to reduce gaps and opportunities for regulatory arbitrage.

Q5. Do you have any comments on the proposed licensing regime for FRS issuers?

Overall, we are comfortable with the approach of licensing by the HKMA.

Q6. Do you have any comments on the proposed licensing criteria and conditions?

We believe the proposed licensing criteria and conditions are broadly workable, though we do have a few suggestions.

Determining who is “actively marketing” in Hong Kong may be difficult to prove and, despite the clarifications, which are welcome, the HKMA may need to issue more detailed clarifications.

The redemption requirement, particularly the need to redeem in a reasonably timely manner will require further clarification, especially in relation to the role of intermediaries and their obligations.

It is noted that Authorised Institutions that are licensed by the HKMA are not subject to the restriction on the FRS issuer engaging in business activities that are not incidental to FRS issuance. Clarity how this would apply to a wholly owned entity of an Authorised Institution set up for stablecoin issuance would be beneficial but relying on the Authorised Institutions for functions such as reserve management etc. may be helpful in future guidance.

Q7. Do you have any comments on the proposed power given to the MA to impose additional licensing conditions?

We are comfortable with the HKMA having powers to impose additional licensing conditions though further clarity on the basis of such an exercise of the power would be appreciated.

Q8. Do you have any view on the proposed arrangements for the offering of FRS?

We have no additional comments at this time.

Q9. Do you support granting the authorities necessary powers to adjust the parameters of in-scope stablecoins and activities, similar to the VASP regime?

As with the HKMA having the power to impose additional licence conditions, we would appreciate further clarity.

Q10. Do you consider the proposed criteria and factors relevant and appropriate for the authorities to take into account when exercising such powers?

As with the HKMA having the power to impose additional licence conditions, we would appreciate further clarity.

Q11. Do you have any comments on the proposed supervisory powers of the MA on licensed FRS issuers?

We have no additional comments at this time.

Q12. Do you have any comments on the proposed investigation powers of the MA in respect of licensed FRS issuers?

We have no additional comments at this time.

Q13. Do you have any comments on the proposed offence and sanction provisions, in particular the sanctions and pecuniary penalty proposed, as well as the appeal arrangements?

We have no additional comments at this time.

Q14. Do you have any comments on the proposed transitional arrangement?

We are broadly fine with what is proposed.

We are more than happy to expand further on the items raised in this submission or to provide further information. If you do have any comments or questions, please feel free to contact EPA Asia's Policy Lead, Dr Brad Pragnell at brad.pragnell@34south45north.com.

**Yours sincerely,
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