

立法會
Legislative Council

LC Paper No. CB(1)588/2022
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by the Administration)

Ref : CB1/BC/5/22

**Bills Committee on Anti-Money Laundering and Counter-Terrorist
Financing (Amendment) Bill 2022**

**Minutes of meeting held on
Friday, 29 July 2022, at 2:30 pm
in Conference Room 2A of the Legislative Council Complex**

Members present : Hon CHAN Chun-ying, JP (Chairman)
Hon Robert LEE Wai-wang (Deputy Chairman)
Hon Holden CHOW Ho-ding
Hon SHIU Ka-fai, JP
Hon YUNG Hoi-yan, JP
Hon Rock CHEN Chung-nin, SBS, JP
Hon Judy CHAN Kapui, MH
Hon Joephy CHAN Wing-yan
Hon Benson LUK Hon-man
Hon Edmund WONG Chun-sek
Hon TANG Ka-piu, BBS, JP
Hon LAI Tung-kwok, GBS, IDSM, JP

Members absent : Hon Duncan CHIU
Ir Hon Gary ZHANG Xinyu
Dr Hon TAN Yueheng, JP

Public officers : Ms May CHAN
Attending Deputy Secretary for Financial Services and the
Treasury (Financial Services)¹

Mr Justin TO
Principal Assistant Secretary for Financial Services and
the Treasury (Financial Services)⁵

Ms Julia LEUNG
Deputy Chief Executive Officer and Executive Director,
Intermediaries
Securities and Futures Commission

Ms Elizabeth WONG
Director of Licensing and Head of Fintech unit,
Intermediaries
Securities and Futures Commission

Mr Mark WOO
Assistant Commissioner (Intelligence and Investigation)
Customs and Excise Department

Ms Betty CHEUNG
Senior Assistant Law Draftsman
Department of Justice

Clerk in attendance : Ms Connie SZETO
Chief Council Secretary (1)4

Staff in attendance : Mr Mark LAM
Assistant Legal Adviser 7

Mr Joey LO
Senior Council Secretary (1)4

Ms Vivian CHAN
Clerical Assistant (1)4

Action

I Election of Deputy Chairman

Election of Deputy Chairman

The Chairman advised that only one valid nomination for the office of deputy chairman was received by the nomination deadline. As the Bills Committee decided to elect a deputy chairman, Mr Robert LEE was declared elected as deputy chairman according to paragraph 8(d) of Appendix IV of the House Rules.

Action

II Meeting with the Administration

- (LC Paper No. CB(3)545/2022 — The Bill
- File Ref: B&M/4/1/41C — Legislative Council Brief
- LC Paper No. LS54/2022 — Legal Service Division Report
- LC Paper No. CB(1)509/2022(01) — Letter dated 22 July 2022 from the Legal Service Division to the Administration
- LC Paper No. CB(1)509/2022(02) — Background brief prepared by the Legislative Council Secretariat
- LC Paper No. CB(1)509/2022(03) — Marked-up copy of the Anti-Money Laundering and Counter-Terrorist Financing (Amendment) Bill 2022 prepared by the Legal Service Division (issued on 26 July 2022 via LC Paper No. CB(1)510/2022) (Restricted to members only)

Declaration of interest

2. The Deputy Chairman declared that he worked in the financial services sector.

Discussion

3. The Bills Committee deliberated (index of proceedings in the **Appendix**).

Invitation of views on the Bill

4. Members agreed to post a notice on the website of the Legislative Council ("LegCo") to invite written views on the Anti-Money Laundering and Counter-Terrorist Financing (Amendment) Bill 2022.

(Post-meeting note: The notice was posted on the LegCo website on 1 August 2022.)

Action

III Any other business

5. There being no other business, the meeting ended at 4:40 pm.

Council Business Division 1 and Public Complaints Office
Legislative Council Secretariat
19 August 2022

**Proceedings of the meeting of
the Bills Committee on Anti-Money Laundering and Counter-Terrorist
Financing (Amendment) Bill 2022
on Friday, 29 July 2022, at 2:30 pm
in Conference Room 2A of the Legislative Council Complex**

Time Marker	Speaker	Subject(s)	Action Required
Agenda item I — Election of Deputy Chairman			
000345 – 000551	Mr CHAN Chun-ying (“Chairman”)	Election of Deputy Chairman	
000552 – 000647	Chairman	Invitation of views on the Anti Money Laundering and Counter-Terrorist Financing (Amendment) Bill 2022 (“the Bill”)	
Agenda item II — Meeting with the Administration			
000648 – 001625	Chairman Administration	Briefing by the Administration on the Bill	
001626 – 002819	Chairman Mr Rock CHEN Administration Securities and Futures Commission (“SFC”)	<p>Mr CHEN expressed support for the Bill in principle and urged that a proper balance should be maintained between regulation and market development in formulating the proposed regulatory regime for virtual asset services providers (“VASPs”). He raised the following enquiries/concerns:</p> <ul style="list-style-type: none"> (a) the rationale for excluding non-fungible tokens (“NFTs”) from the ambit of the Bill; (b) the exclusion of overseas VASPs from the ambit of the Bill would create regulatory loopholes, as most local investors had been conducting virtual asset (“VA”) transactions through overseas online platforms; and (c) whether and when the Administration would consider relaxing the proposed requirement that licensed VASPs could only provide services to professional investors (“PIs”). <p>The Administration advised that:</p> <ul style="list-style-type: none"> (a) it was mindful of the need to maintain a balance between regulation and healthy development of the VA market; 	

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		<p>(b) the primary objective of the Bill was to enhance Hong Kong’s regulatory regime for combating money laundering and terrorist financing (“ML/TF”) in fulfilment of Hong Kong’s obligations under the Financial Action Task Force (“FATF”), and the establishment of a regulatory regime of VASPs in Hong Kong was an important first step in combating ML/TF. Reference had been drawn from the local circumstances (including the ML/TF risks of VA activities in Hong Kong), relevant international standards and guidelines promulgated by FATF in formulating the definition and scope of coverage of VA;</p> <p>(c) FATF adopted a risk-based approach to VA regulation. Under FATF’s definition, NFTs which were used purely as collectibles rather than payment or investment instruments did not constitute VA, and therefore did not fall within the definition of VA as set out in the proposed new section 53ZRA(1);</p> <p>(d) that said, it was necessary to consider the nature and functions of the NFT in practice rather than the marketing terminology used. Certain NFTs might fall within the definition of VA if they meet the features as set out in the proposed new section 53ZRA(1) or evolve into some form of collective investment schemes which fall within the ambit of the Securities and Futures Ordinance (Cap. 571) (“SFO”);</p> <p>(e) there were provisions in the Bill prohibiting the provision of VA services in Hong Kong (including the active marketing of VA services by overseas VA exchanges) without a valid VASP licence, and contravention of such provisions would result in heavy penalties;</p> <p>(f) there were similar provisions in SFO prohibiting the marketing of securities or futures activities to the Hong Kong public by an overseas company without a licence in Hong Kong; and</p>	

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		<p>(g) given that VA was a relatively novel investment product involving high risks, the requirement that licensed VASPs could only provide services to PIs was a prudent measure. The Administration and SFC would closely monitor the development of the VA market in Hong Kong and explore the feasibility of refining the regulatory requirements.</p> <p>SFC added that:</p> <p>(a) as a member of the International Organization of Securities Commissions Board, SFC had been promoting international regulation of the VA market from the perspectives of anti-money laundering and counter-terrorist financing (“AML/CTF”) and investor protection, such as prevention of market manipulation; and</p> <p>(b) in order to protect interests of local investors, overseas VASPs which were not licensed in Hong Kong would be prohibited from marketing their VA services targeting at Hong Kong investors.</p>	
002820 – 003949	Chairman Mr Edmund WONG Administration SFC	<p>Mr WONG made the following enquiries:</p> <p>(a) measures to be adopted by the Administration and SFC in promoting the development of the VA market in Hong Kong whilst protecting investors’ interests;</p> <p>(b) similar legislation in comparable overseas jurisdictions which prohibited outside VA exchanges from actively marketing their services to people of their jurisdictions; and</p> <p>(c) the meaning of “active marketing” and whether the recommendation of services provided by an overseas VA exchange or the sharing of a hyperlink of the exchange by a key opinion leader or an ordinary person would constitute an offence under the Bill.</p> <p>The Administration advised that:</p> <p>(a) the primary objective of the Bill was to combat ML/TF relating to VAs rather than</p>	

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		<p>to promote the development of the VA market. Nevertheless, the Administration had been actively promoting the development of the financial sector in general including financial technology. The establishment of a regulatory regime for VASPs would provide regulatory clarity to VASPs and pave the way towards developing a healthy and orderly VA sector in Hong Kong;</p> <p>(b) the Hong Kong Monetary Authority (“HKMA”) was studying various aspects of VA including the regulation of stablecoins and development of Central Bank Digital Currency in Hong Kong, and would suitably update the Panel on Financial Affairs (“FA Panel”); and</p> <p>(c) relevant legislation overseas seldom contained provisions prohibiting the active marketing of services by outside VA exchanges to people of their own jurisdictions. However, it was important to also consider the context that many such jurisdictions had only adopted a light touch registration regime which was not comparable to the proposed regime in the Bill.</p> <p>SFC advised that:</p> <p>(a) the establishment of a regulatory regime for VASPs would provide a solid foundation for development of the VA industry in Hong Kong;</p> <p>(b) SFC and HKMA issued a joint circular to intermediaries on VA-related activities in January 2022 detailing the existing regulatory requirements. The circular was well received by the banking and securities industries for providing useful guidelines on the provision of VA services; and</p> <p>(c) the proposed restriction on an overseas VA exchange’s marketing of its services to Hong Kong people was developed with reference to the relevant provisions of SFO</p>	

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		which applied the same regulatory yardstick on investor protection.	
003950 – 005018	Chairman Mr Robert LEE ("Deputy Chairman") Administration	<p>Declaration of interest by the Deputy Chairman</p> <p>The Deputy Chairman expressed support for the Bill in general, and raised concern about the proposed restriction that licensed VASPs could only provide services to PIs at the initial stage. He made the following enquiries/views:</p> <ul style="list-style-type: none"> (a) timetable for reviewing the restriction on providing services to PIs only; (b) to better protect investors, it was important for the Administration and SFC to enhance investment education for retail investors ("RIs") instead of excluding them from the services of licensed VASPs; and (c) the proposed registration regime for dealers in precious metals and stones ("DPMS") would increase compliance costs of the industry which would also have to shoulder the costs of the Administration as the registration and related fees would be charged from the dealers on a cost-recovery basis. <p>The Administration advised that:</p> <ul style="list-style-type: none"> (a) the proposed requirement on licensed VASPs to provide services to PIs only was not prescribed in the Bill, and would be included in SFC's licensing conditions for VASPs. SFC would conduct further consultation on the licensing conditions before commencement of the regulatory regime; (b) as a FATF member, Hong Kong was duty-bound to comply with FATF's requirement to establish a statutory AML/CTF regime for DPMS; (c) in order to alleviate the compliance burden on DPMS, it was proposed that the registration and related fees would be waived for first registration where the 	

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		<p>application was made within the transitional period provided in the Bill;</p> <p>(d) among the two categories of DPMS registration (Category A and Category B), Category A registrants (who must not engage in cash transactions with customers at or above HK\$120,000) would be subject to minimal regulation and impact on operation;</p> <p>(e) to administer the registration regime for DPMS and to supervise the DPMS registrants, the Customs and Excise Department (“C&ED”) would, inter alia, create 72 non-directorate civil service posts, involving a full-year recurrent expenditure of HK\$40.8 million; and</p> <p>(f) although registration and related fees would be charged to recover the administrative expenses of operating the DPMS registration regime, such fees were not anticipated to rise significantly over time.</p>	
005019 – 005900	Chairman Mr Benson LUK Administration SFC	<p>Mr LUK expressed support for the Bill and raised the following concerns/enquires:</p> <p>(a) the effectiveness of the proposed regulatory regime of VASPs was doubtful as many RIs were already engaging in VA transactions on overseas VA exchanges; and</p> <p>(b) the requirement on VASPs that they could only provide services to PIs might further drive local investors to use overseas VA exchanges.</p> <p>The Administration advised that:</p> <p>(a) Hong Kong had been leading the way globally in implementing a regulatory regime for VASPs. It was noted that many overseas jurisdictions which had some sort of regulatory regimes in place or under consideration only adopted a registration than a licensing system, and many European Union (“EU”) countries and the United States had recently begun exploring</p>	

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		<p>regulatory regimes similar to that proposed in the Bill;</p> <p>(b) as international organizations had been actively promoting a regulatory regime for VASPs, the establishment of such a regime in Hong Kong would serve as a basis for future international cooperation in regulation; and</p> <p>(c) the proposed requirement of limiting VA services to PIs would avoid sending a wrong message to the public and the market that the Administration was actively encouraging people to participate in VA trading activities.</p> <p>SFC added that:</p> <p>(a) at the international level, overseas jurisdictions had been making concerted efforts in developing AML/CTF regimes in compliance with FATF's requirements, and with the recent incidents pointing to the risks involving in VA activities, they tended to impose more stringent regulation and were moving in the same direction as Hong Kong;</p> <p>(b) in line with Hong Kong's regulatory approach, the European Commission had developed the Regulation of Markets in Crypto-assets (i.e. MiCA) proposal for the regulation of crypto-assets/VAs and their service providers under which a uniform licensing regime was implemented across all EU member states; and</p> <p>(c) the United States Securities and Exchange Commission classified certain VAs as securities, and, in line with Hong Kong's regulatory approach, had plans to strengthen regulation of VA exchanges to enhance protection for investors;</p> <p>(d) in relation to the PI requirement, the SFC would conduct public consultation on whether RI participation should be allowed and, depending on the views received, investor protection and market</p>	

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		development, would consider whether such requirement should still be imposed.	
005901 – 010409	Chairman Mr LAI Tung-kwok Administration	<p>Mr LAI raised the following concerns/enquiries:</p> <ul style="list-style-type: none"> (a) by excluding RIs from the services of licensed VASPs, the Administration would be driving such investors to use overseas VA exchanges, thus exposing them to additional risks in the highly volatile VA market; and (b) given that C&ED would create 72 posts to administer the registration regime for DPMS, details of the establishment required for the operation of similar registration regimes in the past. <p>The Administration advised that:</p> <ul style="list-style-type: none"> (a) there were diverse views during the public consultation as to whether VASPs should be allowed to also provide services to RIs at the initial stage; (b) public education would be stepped up to caution RIs about the risks of using the service of non-SFC licensed overseas VASPs which were outside the ambit of Hong Kong’s regulatory regime; (c) the Money Service Supervision Bureau of C&ED was responsible for administering the Money Service Operators Licensing System which had a manpower establishment of about 100; and (d) with the experience gained and the benefit of online submission of applications, the manpower requirement of the proposed DPMS registration regime could be streamlined to 72. 	
010410 – 010753	Chairman Mr Edmund WONG Administration SFC	<p>Mr WONG expressed support for the Bill, and expressed concern about the proposed financial resources requirements for VASPs posing a major hurdle for small and medium enterprises (“SMEs”) in entering the market.</p> <p>The Administration advised that the financial resources requirements for VASPs were modelled on the relevant requirements under the</p>	

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		<p>Securities and Futures (Financial Resources) Rules (Cap. 571N) and other existing requirements, where the minimum paid-up share capital was HK\$5 million, minimum required liquid capital was HK\$3 million, and sufficiently liquid asset was equivalent to at least 12 months' operating expenditure.</p> <p>SFC added that apart from financial resources requirements, the VASP licensing requirements would also cover a wide range of matters, including that the licensed VASP should have the professional knowledge and experience for operating the VA service. SFC clarified that there was no such requirement that only larger financial institutions ("FIs") could apply for a licence.</p>	
010754 – 011644	Chairman Mr Holden CHOW Administration SFC	<p>Mr CHOW expressed support for the Bill.</p> <p>Noting that the relatively tighter VA regulation regime in Hong Kong might drive more VASPs overseas and more investors to use the services of overseas VASPs not licensed in Hong Kong, Mr CHOW suggested that the Administration and SFC should consider implementing measures to raise the transaction costs of local investors in using the services of overseas VASPs as a means of deterrence.</p> <p>The Administration advised that:</p> <ul style="list-style-type: none"> (a) the objective of the Bill was to enhance Hong Kong's regulatory regime for AML/CTF rather than prohibit VA investors from selecting overseas VASPs; and (b) the Administration would carry out an investor education campaign which would commence as soon as the details of the regulatory regime were formulated. <p>SFC added that:</p> <ul style="list-style-type: none"> (a) under SFO, no person might actively market, whether in Hong Kong or from a place outside Hong Kong, to the Hong Kong public any services which would constitute a regulated activity if provided in 	

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		<p>Hong Kong, unless that person was registered with or licensed by SFC; and</p> <p>(b) based on these provisions, SFC had been keeping a close watch on non-SFC authorized collective investment schemes which were marketed in Hong Kong by overseas online investment platforms, and would take prompt actions against the offenders. For example, SFC successfully took regulatory actions against unauthorized initial coin offerings from 2017 to 2018. SFC would take similar enforcement actions against unlicensed overseas VASPs in marketing their services in Hong Kong.</p>	
011645 – 012905	Chairman Mr SHIU Ka-fai Administration	<p>Mr SHIU's enquiries about:</p> <p>(a) the policy intent of introducing the proposed registration regime for DPMS, the rationale for classifying DPMS into Category A and Category B and the detailed registration requirements for the two categories of registrants;</p> <p>(b) whether exemption from registration should be provided to SME dealers who would not engage in cash transactions with customers at or above HK\$120,000 as their operation posed relatively low risks and should therefore be subject to minimal supervision; and</p> <p>(c) whether SME dealers in personal ornaments would have difficulties in ascertaining the material composition of the ornaments which would be covered in the definition of precious metals and stones, and hence be required to be registered.</p> <p>The Administration advised that:</p> <p>(a) DPMS were one of the designated non-financial businesses and professions ("DNFBPs") identified by FATF for AML/CTF regulation due to their involvement in cash-based transactions which might be abused to launder and disguise proceeds in valuable commodities or to finance terrorism;</p>	

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		<p>(b) FATF required that DPMS which engaged in cash transactions exceeding USD/EUR15,000 (to be implemented locally as HK\$120,000) with customers be subject to the same AML obligations as were other DNFBPs;</p> <p>(c) accordingly, the proposed registration regime would adopt a risk-based approach to separate DPMS who might engage in cash transactions at or above HK\$120,000 (Category B registrants) from those posing lower risks (Category A registrants who might not engage in cash transactions at or above HK\$120,000) for AML/CTF supervision;</p> <p>(d) Category B registrants would be obliged to observe the AML requirements (e.g. customer due diligence (“CDD”)) specified in Schedule 2 to the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (Cap. 615) (“AMLO”). C&ED would conduct regular checks to ensure registrants’ compliance;</p> <p>(e) the directors, partners or ultimate owners of a Category B registrant would be required to pass the fit and proper test. Category B registration was required to be renewed once every three years at a fee of HK\$1,060;</p> <p>(f) while all dealers in personal ornaments containing precious metals and stones would be subject to the registration requirement, dealers which would not engage in single cash transactions with customers at or above HK\$120,000 would only be required to apply for a relatively straightforward Category A registration which would be renewable yearly upon payment of an annual registration fee of HK\$195;</p> <p>(g) Category A registrants who foresaw the possibility of engaging in single cash transactions at or above HK\$120,000 were advised to apply for a Category B registration before engaging in such</p>	

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		<p>transactions, or to conduct such transactions by other payment methods other than cash;</p> <p>(h) the two-tier registration regime was designed to enable C&ED to maintain an up-to-date picture of the precious stone trade and obtain traceable information on the overall landscape of the DPMS industry as required by FATF; and</p> <p>(i) “precious metals” included gold, silver, platinum or any other metals in the platinum group (i.e. iridium, osmium, palladium, rhodium or ruthenium).</p>	
012906 – 013459	Chairman Deputy Chairman SFC	<p>The Deputy Chairman made the following suggestions:</p> <p>(a) instead of excluding RIs from the services of licensed VASPs, licensed VASPs should be required to perform suitability tests on their customers’ suitability for the VA services/products;</p> <p>(b) there should be measures to enable the orderly withdrawal from the VASP market of the pre-existing VASPs which were unable to meet the licensing requirements of the new regulatory regime, so as to avoid unnecessary losses by customers who had been using the services of such VASPs; and</p> <p>(c) investor education should be stepped up to tie in with the introduction of the VASP licensing regime.</p> <p>SFC advised that:</p> <p>(a) depending on the outcome of the further consultation with the public and the industry, SFC would not rule out the possibility of requiring VASPs to perform suitability tests when providing VA services to customers if RI participation was allowed;</p> <p>(b) there would be transitional arrangements for pre-existing VASPs to apply for a VASP licence under the proposed new section 53ZRK, and the applicant might be</p>	

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		<p>deemed licensed pending SFC's determination of the application;</p> <p>(c) should the application be unsuccessful or withdrawn, the applicant concerned would be required to close down its business within a certain period of time and SFC would discuss with the applicant to ensure orderly wind down and would require the applicant to provide a cessation plan; and</p> <p>(d) SFC would enhance investor education to help existing customers of VASPs which could not obtain a licence to switch to a licensed VASP.</p>	
013500 – 014201	Chairman Ms YUNG Hoi-yan Administration	<p>Ms YUNG made the following enquires/suggestions:</p> <p>(a) number of cases and trend involving ML/TF activities in precious metals and stones transactions in recent years, and how the proposed registration regime could combat such activities effectively; and</p> <p>(b) the flexibility to be allowed for FIs in determining the degree of CDD in respect of former “politically exposed persons” (“PEPs”).</p> <p>The Administration advised that:</p> <p>(a) C&ED reckoned that there was no major involvement of ML/TF activities in precious metals and stones transactions. From 2016 to 2020, there were three suspicious transaction reports relating to precious metals and stones transactions received by the Joint Financial Intelligence Unit of which C&ED operated in collaboration with the Hong Kong Police Force, and this amounted to less than 0.1% of the total number of reports received;</p> <p>(b) the proposed registration regime for DPMS was introduced in response to the requirement of FATF on its members to put in place a statutory AML/CTF regulatory regime for DPMS, which was currently lacking in Hong Kong;</p>	

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		<p>(c) while FIs were required to conduct enhanced CDD on an incumbent PEP who was entrusted with a prominent public function, the proposed amendment to the definition of PEP aimed to, in respect of a former PEP, allow FIs to take a flexible, risk-sensitive approach in determining the degree of CDD to be conducted; and</p> <p>(d) factors for FIs to consider in determining whether a former PEP was no longer entrusted with a prominent public function might include the amount of influence still wielded and the office still held, as well as the linkage between the office previously held and the current position held, by the person.</p>	
014202 – 014647	Chairman Mr Benson LUK Administration	<p>Whist the primary objective of the Bill was to combat ML/TF risks, Mr LUK enquired if promotion of healthy development of the VA market in the long run would be a policy direction of the Administration.</p> <p>The Administration advised that:</p> <p>(a) the development of the VA market was not among the purposes of the Bill which mainly dealt with regulation of VA exchanges from AML/CTF perspective; and</p> <p>(b) issues relating to VA, including the development of stablecoins, were being explored by the Administration in collaboration with various regulatory bodies. The Administration and the regulatory bodies would maintain close contact with the industry and update the FA Panel in due course.</p>	
014648 – 015649	Chairman Mr LAI Tung-kwok Administration SFC	<p>Mr LAI made the following enquiries/views:</p> <p>(a) whether all VA-related products launched by licensed VASPs would have to be vetted and obtain prior approval from SFC;</p> <p>(b) the threshold of precious metal content in a good sold by a DPMS which would trigger the registration requirement for the dealer under the proposed registration regime; and</p>	

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		<p>(c) it might be unfair to Category A registrants who would have to pay a registration fee simply for providing up-to-date market information to C&ED.</p> <p>SFC advised that:</p> <p>(a) one VASP had already been licensed under SFO, with another VASP being granted approval-in-principle;</p> <p>(b) as the clientele was restricted to PIs, the existing opted-in VASPs were required to conduct product due diligence (“PDD”) on the VAs before including them for trading, such position being similar to that which was currently required of SFC-licensed or registered intermediaries;</p> <p>(c) the PDD should consider factors such as whether the VA: (i) had sufficient circulation in the market, (ii) had a sufficiently long track record, (iii) had a clean record in terms of ML/TF risk and (iv) had adequate cybersecurity risk management; and</p> <p>(d) if the product was to be offered to RIs, a stricter set of PDD guidelines might have to be introduced.</p> <p>The Administration advised that:</p> <p>(a) under the proposed DPMS registration regime, dealers involved in cash transaction of any goods containing (regardless of content) precious metals would be subject to regulation, and dealers were advised to clarify with their suppliers about the precious metal content of the goods concerned;</p> <p>(b) with regard to precious products such as jewelry and watches, dealers in such products would fall into the regulatory scope if over 50% of the transaction value of the product concerned came from the precious metals or stones comprising the product;</p>	

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		<p>(c) C&ED would need to create 72 non-directorate civil service posts to administer the proposed registration regime for DPMS and supervise the registrants, an annual registration fee of HK\$195 would be charged on Category A registrants on a cost-recovery basis;</p> <p>(d) C&ED would conduct ML/TF risk assessment based on the information provided by Category A registrants; and</p> <p>(e) the proposed waiver of registration and related fees for DPMS in their first registration would alleviate the cost burden of small businesses.</p>	
015650 – 020534	Chairman Mr Holden CHOW Administration SFC	<p>Mr CHOW made the following suggestions/views:</p> <p>(a) given the rapid evolution of the VA market, whether consideration would be given to issue time-limited licences instead of open-ended licences to VASPs in order to facilitate regular supervision by SFC;</p> <p>(b) with increasing popularity of settlement using VAs in international artwork transactions, whether the Bill would also deal with such transactions; and</p> <p>(c) it was prudent to convey a clear message to the public that their interests would not be protected if they engage the services of overseas VASPs which were not licensed by SFC.</p> <p>The Administration advised that:</p> <p>(a) as a licensed VASP would need to make substantive investment in order to build a sophisticated system for operating a competitive VA exchange, an open-ended licence would provide the necessary certainty to VASPs;</p> <p>(b) the Bill would only cover VA exchanges given the high risks and significant amount of transactions involved; and</p>	

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		<p>(c) regulation of other VA-related services had not been ruled out as the Secretary for Financial Services and the Treasury was empowered under the Bill to prescribe by notice published in the Gazette whether a particular service was to be considered a VA service under AMLO.</p> <p>SFC added that:</p> <p>(a) all licensed VASPs would be subject to regular on-site inspection as well as ongoing supervision by SFC, in line with the treatment under the regulatory sandbox;</p> <p>(b) drawing reference from SFO on the regulation of securities and futures dealers and trading platforms, it was proposed that SFC be given intervention powers to impose prohibitions in relation to the operation of a licensed VASP or to revoke the licence of a licensed VASP where the circumstances so warrant, thus licensees were under SFC's continuous supervision and hence obviated the need to grant time-limited licences; and</p> <p>(c) if the Hong Kong public understood through investor education that licensed VASPs were being supervised and monitored on an ongoing basis, as compared to unregulated VASPs which might close down at any time, there would be greater incentives for them to choose not to invest with VASPs which were outside SFC's regulatory ambit.</p>	
020535 – 021344	Chairman Mr SHIU Ka-fai Administration	<p>Mr SHIU's views that:</p> <p>(a) there would be difficulties in enforcing the registration requirement on the content/value of precious metals and stones in the goods being traded; and</p> <p>(b) day-to-day items such as photograph frames, eyeglasses frames, personal ornaments and tablewares would also contain precious metals and stones. The registration requirement for all dealers engaging in cash transactions of these items would cause confusion, and some of them</p>	

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		might fall into the criminal net inadvertently. The Administration noted Mr SHIU's views and advised that C&ED would engage valuers to assess the precious metal content of the goods concerned for law enforcement purpose.	
Agenda item III — Any other business			
021345 – 021348	Chairman	Concluding remarks	

Council Business Division 1 and Public Complaints Office

Legislative Council Secretariat

19 August 2022