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Bitcoin Association of Hong Kong

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Fellow compatriots:

It was with great enthusiasm that I participated in the panel regarding virtual asset regulation sponsored by the Democratic Alliance for the Betterment of Hong Kong at the Legco Complex on 15 January 2025 and I have been gratified to see first hand the hard work and dedication that both the administration and Legislative Council have put into virtual asset policy in Hong Kong.

Since then, in my capacity as research scientist at the Hong Kong Institute of Physics, I have been following with great interest the deliberations on the stablecoin bill through the Legislative Council as well as global changes in the virtual asset regulation, particularly those associated with the change in administration in the United States.

Our institute is committed to the patriotic development of science and technology for the peaceful development of the Chinese nation and for common prosperity and collective national security of all mankind. We see the development of virtual assets and stablecoins in Hong Kong to be essential to prevent adversarial powers from weaponizing the financial system to deny the Chinese nation access to science and technology and the ability to engage in scientific, technological, and economic exchange with other nations.

In order to achieve these patriotic scientific and technological goals, our institute makes extensive use of stablecoins and virtual assets for the purpose of international payments to avoid limits and restrictions imposed by adversarial powers. Therefore, any restrictions on the ability of our institute to transact in stablecoins and virtual assets through Hong Kong would cause significant hardship to our activities, and in conducting our activities in Hong Kong, there is very heavy reliance on the Hong Kong capitalist system and its legal framework, specifically Article 112 of the Basic Law which prohibits foreign exchange control policies, guarantees the convertibility of the Hong Kong dollar, and mandates that the HKSAR government safeguard the free flow of capital.

Therefore, I wish to bring to the attention of the Council and administration the attached letter which describes a potential constitutional conflict between Article 112 of the Basic Law and the restrictions on offering stablecoins as well as national security issues resulting from stablecoin policy.

As I have stated in the attached letter, these constitutional and national security issues can be resolved by adopting a narrow interpretation of Clause 6 of the bill, which defines the act of “offering” a specified stablecoin. We have presented an interpretation of Clause 6 which would have the effect of restricting transactions relating to the issuance of stablecoin but would not affect OTC trading and circulation of unlicensed stablecoins issued outside of the HKSAR, which we assert are protected activities under Basic Law Article 112.

However, we are concerned that there may be alternative readings of Clause 6, by which unlicensed stablecoins issued outside of Hong Kong may not be transacted in the HKSAR, and we are particular concerned at the discussion on the Bills Committee on 11 February 2025 in which in response to a question by Legislator Rocky CHAN, in which the HKMA stated that in the absence of licensing retail investors would not be able to use stablecoins issued outside of Hong Kong. While HKMA stated its willingness to encourage stablecoin vendors to seek licensing in Hong Kong, this does not answer the question of the legal status of stablecoin vendors who do not do so.

We are of the strong belief that if the prohibition in “offering” stablecoins were broad enough to prevent the OTC use, trading and circulation of stablecoins issued outside of the HKSAR that this would violate the Basic Law Article 112 prohibitions against foreign exchange controls, limits on the convertibility of the Hong Kong dollar, and constitute an unconstitutional capital control.

We assert that a measure that required licensing of a stablecoin to be used in business transactions in Hong Kong and which limited the ability to convert Hong Kong dollars to unlicensed stablecoins issued outside of Hong Kong would be akin to the measures in the mainland of China which prohibit the use of currencies other than renminbi for business transactions or which limit the convertibility of the renminbi to other currencies. While these restrictions are commonplace under the socialist system of the mainland of China, restrictions on what foreign currencies can be used for business transactions in Hong Kong and on the ability to convert foreign currencies, including stablecoins, to and from the Hong Kong dollar are fundamentally incompatible with the capitalist system of Hong Kong and the “one country, two systems” policy.

As we have pointed out in the attached letter, the proper functioning of the capitalist system of Hong Kong is necessary to connect the socialist system of mainland China to the global capitalist financial system, and to safeguard the socialist system in mainland China, we patriots must safeguard the capitalist system in Hong Kong.

Our concerns regarding the proper reading of Clause 6 have been enhanced by a recent trip we have made to the United States. The Trump administration has made it a policy to oppose the issuance of any central bank digital currency, and instead has decided to fast track the adoption of the GENIUS Act, which will result in many private stablecoins issued in the United States. In our discussions with the virtual asset industry at EthDenver and in the Digital Asset Summit in New York City, we have found that as a result of the GENIUS Act there are many initiatives prepared to launch stablecoins in the United States. We believe that other nations may copy the policies of the United States by authorizing the issuance of private stablecoins rather than going through the central bank digital currency route.

Moreover in my discussions with members of the scientific and virtual asset community in the United States, I was gratified to have found that much of the anti-China sentiment which exists within certain sectors of the American political elite has had limited influence among the people and business community of the United States. Most Americans, like people of all nations, simply desire peace and prosperity and we believe that it is essential for Hong Kong to maintain its core principles of developing the capitalist system to encourage peaceful trade and scientific and economic interaction with all nations of the world.

However, I was dismayed to find that the virtual asset ecosystem in Hong Kong to be less dynamic and innovative than the ecosystem in the United States. As with many others involved in virtual assets, I believe that both the United States and Hong Kong have made errors by excessively regulating the virtual asset industry, the large size of the US market has allowed the virtual asset ecosystem to overcome excessive regulation that has been damaging to a smaller ecosystem such as Hong Kong.

We note that because of the recent changes in US crypto policy that many of the assumptions of virtual asset regulation that underlie stablecoin regulation in Hong Kong no longer exist. Stablecoin and virtual asset regulation in Hong Kong had been developed with the assumption that Western nations would come to a regulatory consensus and that Hong Kong should adopt rules based on this consensus to maintain compatibility with Western financial practices. In crafting regulatory policy, we have noted that Hong Kong has looked toward the United Kingdom and the European Union for regulatory guidance in order to standardize crypto policy on a regulatory heavy approach with the assumption that the United States would adopt similar policies.

We note that the election of President Donald Trump and the resignation of Gary Gensler from his position as chairman of the Securities and Exchange Commission, has destroyed this consensus model of regulation-heavy framework for virtual asset regulation. With the support of the virtual asset industry, the United States has rejected UK/EU styled regulation and moving to a light-touch framework for stablecoin and virtual asset regulation which they believe and we believe will avoid the issues with overregulation that have harmed other Western nations. We also note that in contrast to many of the other controversial policies of President Trump, that this industry-friendly, light regulatory approach of his administration toward virtual assets has achieved support from both the Democratic and Republican parties.

During the US Presidential election, in his speech at Bitcoin 2024 in Nashville, Tennessee, then-candidate Donald Trump specifically pointed to the development of virtual asset regulation through industry-friendly and light touch regulation as necessary for the United States to compete with China. China must rise to this challenge in a spirit of friendly but firm competition.

We believe that given the well-known issues that the United Kingdom and the European Union have in economic growth and technological progress that the People's Republic of China should seek to develop its virtual asset and stablecoin industry through the "one country, two systems" policy by developing the capitalist system of the Hong Kong Special Administrative Region for the benefit of the socialist system of the Chinese mainland. As such, we believe that the Hong Kong Special Administration Region should reject the administratively heavy approaches of the United Kingdom and the European Union, and focus on developing the capitalist system of Hong Kong based on the free market principles of Article 112 of the Basic Law and that Clause 6 of the stablecoin bill should be interpreted narrowly to achieve these ends.

Because Hong Kong is a small market, we believe that most of the issues that will result from the passage

of the GENIUS Act in the United States will not seek licensing from the Hong Kong Monetary Authority to operate in Hong Kong. Given the unsettled nature of global geopolitics, many stablecoins issuers may seek to avoid licensing by Hong Kong to avoid adverse attention by those seeking to isolate the People's Republic of China economically. We are therefore extremely concerned that an interpretation of Clause 6 which limits the trading and circulation of these unlicensed stablecoin in the HKSAR may unintentionally aid those that seek to limit access by the People's Republic of China to external technology and trade.

We note that stablecoins are commonly used in Hong Kong to settle trade with BRICS nations and nations involved in the Belt and Road initiative, with which the People's Republic of China wishes to maintain friendly scientific, technological, economic, and trade relations, and we believe that Clause 6 should be interpreted in a manner to protect and promote these uses of stablecoin in the Hong Kong Special Administrative Region. An excessively expansive interpretation of Clause 6 may lead to limits on the foreign exchange and the convertibility of the Hong Kong dollar to different stablecoins that may render the People's Republic of China more vulnerable to sanctions or blockades and limit its ability to engage in peaceful scientific and technological projects with other nations.

Therefore, we are concerned that the administration and the Legislative Council may be in favor of a more expansive reading of the term "offering" in Clause 6, which we believe to be problematic on both constitutional and national security grounds and not in the public interest of the Hong Kong Special Administration Region or the People's Republic of China.

Because these issues impact our institute directly if the outcome of the legislative discussion is a stablecoin regime that prevents our institute from performing OTC transactions in stablecoin, we would be forced to seek judicial review to enforce our constitutional rights and to have these restrictions removed. Aside from being expensive in time and money, a judicial route would have a negative impact on the reputation of the HKSAR as an international financial center, and we wish to avoid these outcomes.

Therefore, we believe that these issues would best be resolved through discussion and consensus before the legislation is enacted, and through consensus-based regulatory guidance during the transition period rather than through judicial review after the bill is enacted. I would appreciate any efforts the administration, Legislative Council and the Bills Committee may have in clarifying these issues.

In the spirit of open debate and discussion, you may forward this letter to any persons you see fit.

Faithfully yours,

A handwritten signature in blue ink, appearing to read "Joseph C. Wang". The signature is fluid and cursive, with a long horizontal stroke at the end.

Dr. Joseph Chen-yu WANG  
Senior Research Scientist  
Hong Kong Institute of Physics

encl: Letter to Henry Yu & Associates regarding BL Article 112