



FINTECH ASSOCIATION  
OF HONG KONG

## **Response to HKMA Discussion Paper on Cryptoassets & Stablecoins (March 31, 2022)**



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The FinTech Association of Hong Kong (FTAHK) is a **member-driven, independent, not-for-profit, & diverse** organisation that is the voice of the FinTech community in Hong Kong. It is organised and led by the community, for the community, through a series of committees and working groups.

Our objective is to promote Advocacy, Communication and Education in the wider FinTech ecosystem.

**Build the community.**

**Be the connector.**

## A. FOREWORD

The Hong Kong Monetary Authority (HKMA) released a Discussion Paper on Cryptoassets & Stablecoins on 12 January 2022<sup>1</sup>, inviting ‘views from the industry and public on the relevant regulatory approach on the risks to the monetary and financial systems of Hong Kong posed by the increased adoption of cryptoassets and stablecoins.

The Discussion Paper set out the HKMA’s thinking on the regulatory approach for cryptoassets, and in particular, payment-related stablecoins. The HKMA indicated that they had taken into account, among other things, international recommendations and the characteristics of payment-related stablecoins, as well as the market and regulatory landscape locally and within other major jurisdictions. To facilitate the stakeholders in sharing their views, the HKMA highlighted certain issues in the form of questions and answers, which the FTAHK has used to structure its detailed responses.

The FinTech Association of Hong Kong (“**FTAHK**”) welcomes the endeavours of the HKMA to further enhance the regulatory regime governing virtual assets in Hong Kong and to facilitate transparency within the industry.

The FTAHK is a not-for-profit industry organisation that has over 1100 members representing 300+ firms and is the largest FinTech association in Hong Kong. Our wide-ranging membership comprises of global and domestic FinTechs, Financial Institutions, Technology Service Providers, Consultancies, Law Firms, Academia, and Students.

We are grateful to have the opportunity to respond to this public consultation; the scope of which is focused on the proposed regulatory regime for stablecoins.

This response has been prepared by members of FTAHK’s Blockchain committee, Digital Banking & Payments committee, and the Board of Directors, representing a broad range of experience and backgrounds, from FinTech start-ups to established financial services firms, as well as stakeholders such as virtual asset services providers (“**VASPs**”), consultancies, law firms, technology companies, and academia.

The FTAHK welcomes the opportunity to discuss any of the feedback provided in future follow up sessions with HKMA.

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March 31<sup>st</sup> 2022

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<sup>1</sup> <https://www.hkma.gov.hk/eng/news-and-media/press-releases/2022/01/20220112-3/>

## B. EXECUTIVE SUMMARY

In principle, the FTAHK is very supportive of the HKMA's proposed risk-based approach to regulating stablecoins and its focus on **payment-related stablecoins**, i.e., those stablecoins that are increasingly considered as an acceptable means to store value and/or make payments, and thereby have a higher potential for incorporation, on a global basis, into mainstream financial systems with its attendant risks.

In considering the extent of any proposed regulation (or amendment to existing regulation), we recommend that the HKMA adopt a “**substance (or function) over form**” approach as the primary guide to determining appropriate regulation of payment-related stablecoins, i.e., a review of the purpose for which an entity may create, hold, utilise, transfer, or distribute such a payment-related stablecoin and/or its use.

Adoption of this approach would allow the HKMA to understand whether such payment-related stablecoin should be regulated under existing or equivalent licensing regimes as:

- a stored value facility (“**SVF**”);
- a deposit-taking bank;
- a virtual asset service provider (“**VASP**”); or
- under any other relevant licensing regime.

We also recommend that the HKMA's proposed regime:

- (i) regulates “primary activities”, i.e., the issuance, creation, or destruction of payment-related stablecoins, or activities that are linked to the management of stabilisation activities in relation to stablecoin value (items (i) and (ii) of the HKMA's list of activities); and
- (ii) not regulate “secondary activities”, i.e., those activities that are merely ancillary or incidental to the primary activities (items (iii) – (vii) of the HKMA's list of activities).

Otherwise, the breadth of regulatory scope proposed by the HKMA may be greater than those under consideration by other regulatory bodies (both local and international) and may increase regulatory friction and stymy innovation and growth of Hong Kong's virtual asset ecosystem and competitiveness.

We urge the HKMA to continue to work alongside international and local regulators and standard-setting bodies to create a coordinated regulatory regime that is consistent with global standards in terms of minimum requirements to avoid overlap and confusion and prevent regulatory arbitrage while protecting stablecoin users and financial stability. In particular, we encourage the HKMA to continue to be actively involved in cross-border regulator discussions and consultations initiated by organisations such as the Financial Stability Board (“**FSB**”) and the Bank for International Settlements (“**BIS**”).

We welcome the opportunity to continue our collaboration with the HKMA and provide timely and relevant feedback on any proposed new and/ or amended legislation and/ or regulation as they are being drafted to ensure that Hong Kong's virtual asset industry continues to be globally competitive and responsible.

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