

8 Key Proposed Regulatory Requirements for Virtual Asset Trading Platform Operator

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The Securities and Futures Commission (the “SFC”) has recently published the “**Consultation Paper on the Proposed Regulatory Requirements for Virtual Asset Trading Platform Operators Licensed by the Securities and Futures Commission**” (the “**Consultation Paper**”). The Consultation Paper listed out the proposed regulatory requirements for the licensed virtual asset trading platform operators (“**VATP**”).

The Consultation Paper proposed that the licensed VATP shall comply with the “**Guidelines for Virtual Asset Trading Platform Operators**” (the “**Guidelines**”) which is based on the existing regulatory requirements applicable to the Securities and Futures Ordinance-licensed platform operators and, in particular, the “**Terms and Conditions for VA Trading Platform Operators**” (the “**T&C**”) which are briefly summarized as follows:-

1. **Safe custody of assets:** VATP is required to hold client assets (i.e. client money and client virtual assets) on trust through its associated entity. VATP should establish and implement written internal policies and governance procedures for private key management to ensure that all cryptographic seeds and keys are securely generated. In addition, no encumbrance should be created over client’s virtual assets. Also, insurance policy should be taken out to cover risks associated with the custody of client virtual assets.
2. **Know-Your-Client:** As with other corporations licensed by the SFC, VATP shall take all reasonable steps to establish the true and full identity of each of its clients and client’s financial situation, investment experience and investment objectives. VATP should also ensure that client has sufficient knowledge of virtual assets (e.g. risk associated with virtual assets).
3. **Anti-Money Laundering:** VATP should establish and implement adequate and appropriate Anti-Money Laundering and Counter-Financing of Terrorism policies, procedures and controls. It is suggested that VATP may deploy virtual asset tracking tools to trace the on-chain history of specific virtual assets. In addressing the regulatory concern, the SFC proposed to add a new section headed “**Virtual Assets**” to the Guideline on Anti-Money Laundering and Counter-Financing of Terrorism (For Licensed Corporations) (September 2021 version) which will be renamed as “**Guideline on Anti-Money Laundering and Counter-Financing of Terrorism (For Licensed Corporations and SFC-licensed Virtual Asset Service Providers)**”. Further, “**Prevention of Money Laundering and Terrorist Financing Guideline issued by the Securities and Futures Commission for Associated Entities**” (September 2021) will be amended and renamed as “**Prevention of Money Laundering and Terrorist Financing Guideline issued by the Securities and Futures Commission for Associated Entities of Licensed Corporations and SFC-licensed Virtual Assets Services Providers**”.



4. **Conflict of interest:** VATP should not engage in proprietary trading or market-making activities on a proprietary basis. Further, VATP should have in place a policy governing employees' dealing to eliminate, avoid, manage or disclose conflict of interest (whether actual or potential).
5. **Admission of virtual asset for trading:** VATP should set up a function to establish, implement and enforce the criteria for admitting, halting, suspending and withdrawing virtual assets from trading. Due diligence on virtual assets should be performed before admitting them for trading.
6. **Prevention of market manipulative and abusive activities:** Written policies and procedures and controls to identify, prevent and report market manipulative or abuse trading activities should be established and implemented. An effective market surveillance system provided by a reputable and independent provider should be adopted and VATP should provide the SFC with access to the surveillance system.
7. **Accounting and auditing:** VATP should exercise due skill, care and diligence in selecting auditors and submit annual auditor report which consists of a statement on whether applicable regulatory requirements have been contravened. The SFC may impose conditions on VATP to provide monthly reports to the SFC within 2 weeks after the end of each calendar month and upon the SFC's request.
8. **Risk management:** Sound risk management framework should be set up to identify, measure, monitor and manage the full range of risks. Client is required to pre-fund the account and financial accommodation to client is prohibited.



Last but not least, the T&C will be superseded and all licensed VATP will be subject to the Guidelines going forward.

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