

SFC Virtual asset trading platform (VATP) Regime

2023



SFC's New VATP Regime Consultation

SFC's announcement

On 23 May 2023, the Securities and Futures Commission (SFC) launched a public consultation conclusion on virtual asset trading platform operators ("VATP"), setting out:

1. Proposed regulatory requirements for licensed VATP's; and
2. Transitional arrangements and implementation details for the VATP licensing regime under the upcoming Anti-Money Laundering and Counter-Terrorist Financing Ordinance ("AMLO VASP Regime"), which will become effective on 1 June 2023.

SFC Consultation Paper Conclusion: <https://apps.sfc.hk/edistributionWeb/api/consultation/conclusion?lang=EN&refNo=23CP1>

Key impact on Digital Asset Exchanges and Operators

Upon commencement of the new regime, **all centralised VA trading platforms doing business in Hong Kong will need to be licensed and regulated by the SFC**. A 12 month non-contravention period will be granted to existing VATPs operating in Hong Kong.

Currently, VATPs (offering security tokens) are licensed under the Securities and Futures Ordinance (Cap 571) ("**SFO Regime**") and are required to obtain SFC Type 1 and Type 7 licenses. The SFC proposes that the SFO Regime will be consolidated with the AMLO VASP Regime, and that **the VATP Guidelines will be applicable to all VATPs under the SFO Regime or the new AMLO VASP Regime**.

VATPs not operating in Hong Kong before 1 June 2023 ("**Non-Pre-Existing VATPs**") cannot commence business until they are formally licensed.

Pre-existing VATPs (as of 1 June 2023) **must submit license applications by 29 Feb 2024 or cease operations by 31 May 2024**.

VATP applicants will be **required to submit external assessment reports** to the SFC **(i) when submitting the license application** (Phase 1 Report - design effectiveness) and **(ii) after approval-in-principle is granted** (Phase 2 Report – implementation and effectiveness)

Next steps to consider

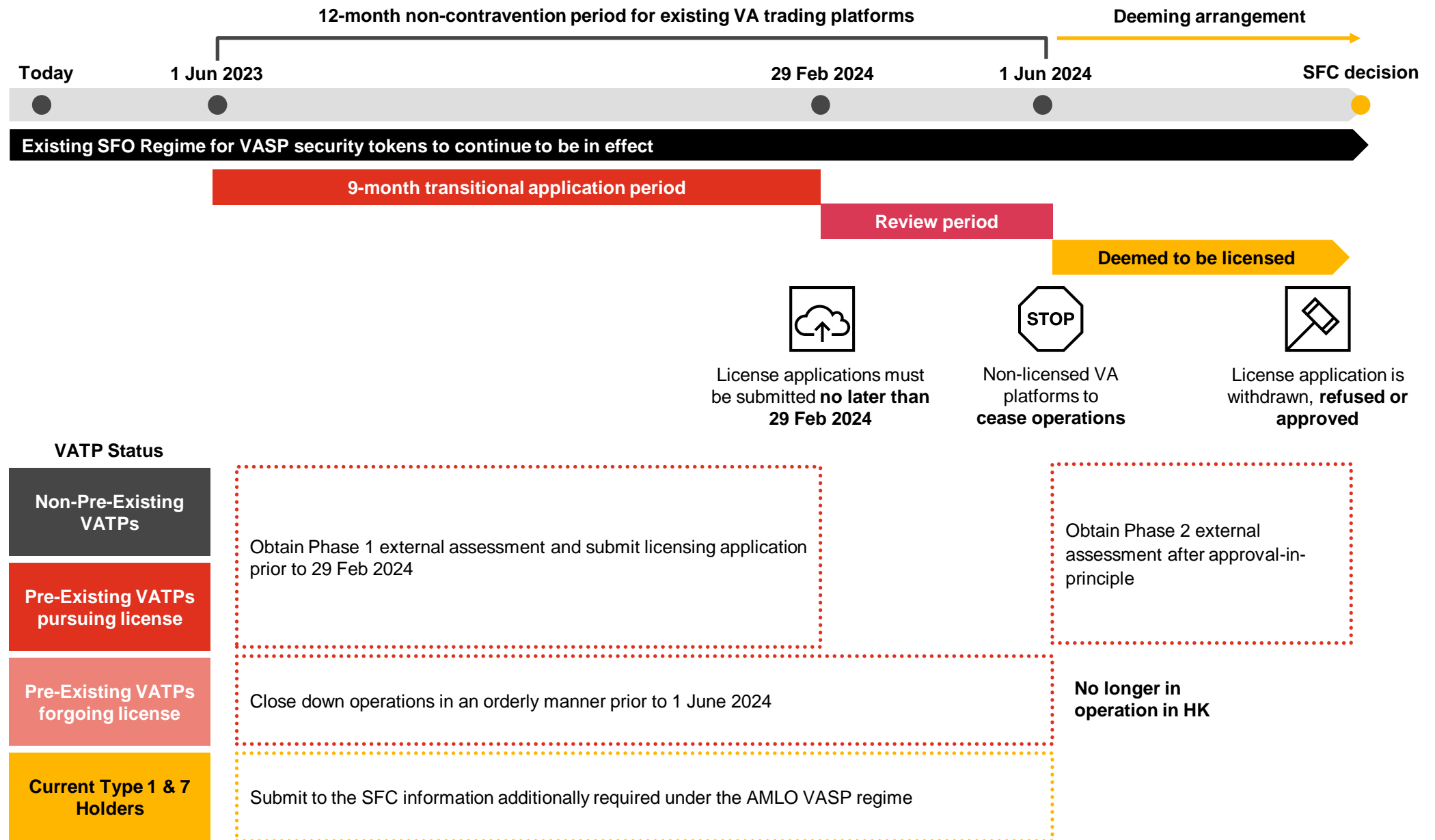
VATPs currently licensed under SFO regime

- Prepare to satisfy VATP and AML guidelines in adding to SFO requirements
- Submit to the SFC information additionally required under the AMLO VASP regime

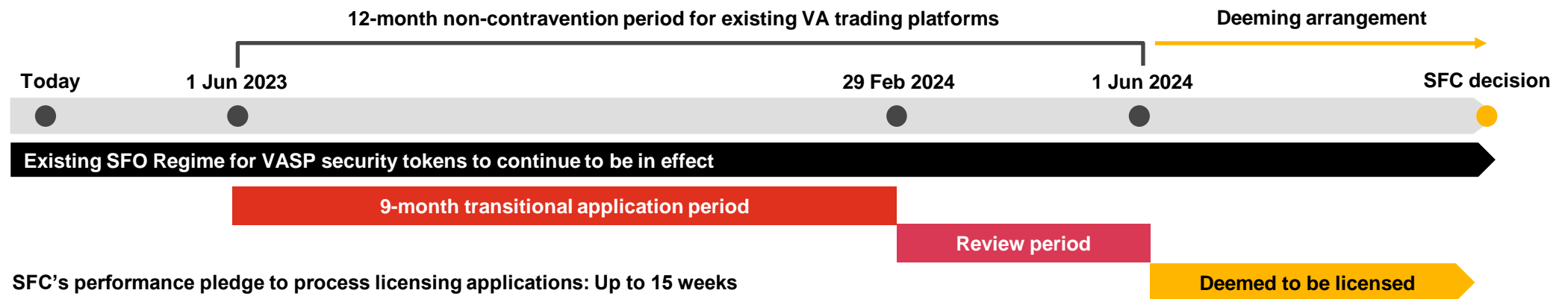
Pre-existing VATPs not currently licensed under the SFO regime & Non-Pre-Existing VATPs looking to operate in Hong Kong

- Cannot commence business until licensed
- Prepare platform, systems, and processes to satisfy SFC licensing requirements
- Successfully obtain Phase 1 external assessment and submit licensing application prior to 29 Feb 2024
- Consider applying for dual license (both SFO and AMLO Regimes) if offering both security tokens and pure virtual assets

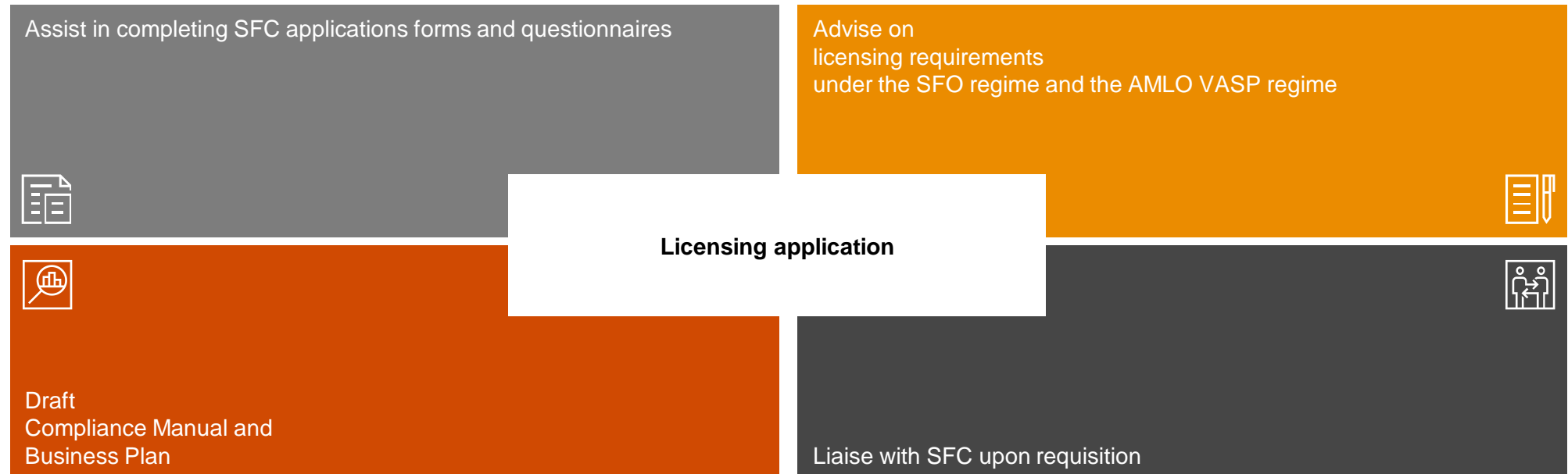
Licensing milestones



Legal services for licensing application and timeline

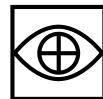
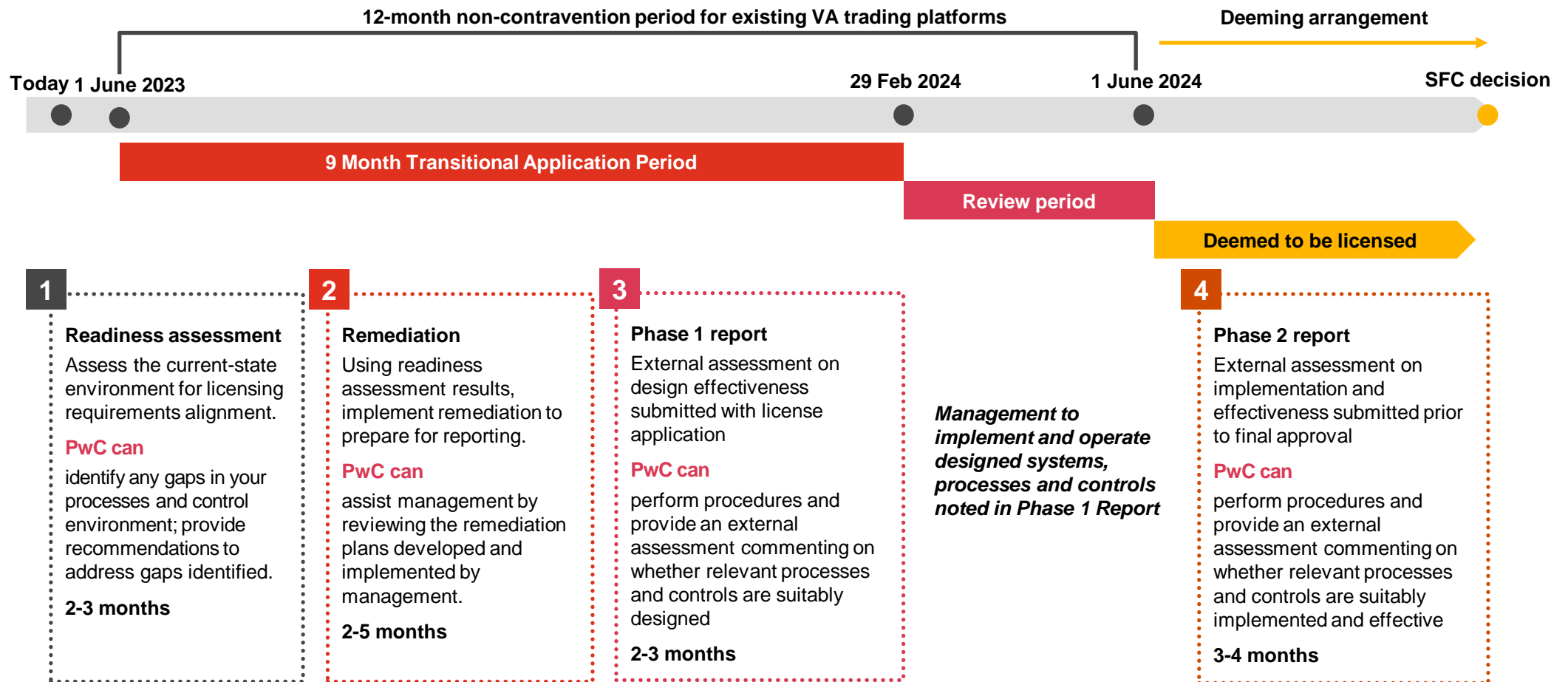


Together with PwC, Tiang & Partners* provides legal services for the licensing application as follows:



*Tiang & Partners is an independent Hong Kong law firm and a member of the PwC network.

External Assessment approach and timeline



Report Focus Areas:

- Governance and staffing
- Token admission
- Custody of VA
- KYC
- AML/CFT
- Market surveillance
- Risk Management
- Cybersecurity

Your next step and contacts

About PwC:

At PwC, our purpose is to build trust in society and solve important problems. We are a network of firms in 158 countries with more than 250,000 people who are committed to delivering quality in assurance, advisory and tax services.

The PwC Global Crypto Team is composed of over 150 professionals active in over 25 countries that offer a “one stop shop” solution for our crypto clients across our multiple lines of service and that has already completed over 300 crypto client engagements in the past two years. Our clients include crypto exchanges, crypto investors, token issuers, crypto service providers, traditional financial institutions moving into the crypto space, as well as national regulators with regards to their crypto policies.

PwC has helped crypto service providers build trust in their security and operations with assessment reports since 2018. We can support your organisation prepare its platform operations for licensing and serve as the external assessor in the timelines required to take advantage of the transitional application window.

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*Legal services will be provided by Tiang & Partners, and independent Hong Kong law firm and a member of the PwC network.

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Appendix

Appendix 1 – Presence in HK

Per Consultation Paper on the Proposed Regulatory Requirements for Virtual Asset Trading Platform Operators Licensed by the Securities and Futures Commission, Part IV – Eligibility for the transitional arrangements:

75. In determining whether a firm has been operating a VA trading platform in Hong Kong prior to 1 June 2023 and has a meaningful and substantial presence, the SFC will take into account the following factors, amongst others:

- a. whether it is incorporated in Hong Kong;
- b. whether it has a physical office in Hong Kong;
- c. whether its Hong Kong staff have central management and control over the VA trading platform;
- d. whether its key personnel (for example, those responsible for the operation of the trading system) are based in Hong Kong; and
- e. whether the centralised trading platform's operation is live with considerable number of clients and volume of trading activities in Hong Kong.

Appendix 2 – External Assessment

Per Consultation Paper on the Proposed Regulatory Requirements for Virtual Asset Trading Platform Operators Licensed by the Securities and Futures Commission, Part IV – External assessment report:

95. In relation to the scope of these reports:

- a. the Phase 1 Report should cover the design effectiveness of the VA trading platform's proposed structure, governance, operations, systems and controls, with a focus on key areas such as governance and staffing, token admission, custody of virtual assets, KYC, AML/CFT, market surveillance, risk management and cybersecurity. The assessor should review and assess whether the platform operator's policies and procedures are clearly written and in compliance with the applicable legal and regulatory requirements, particularly the VATP Guidelines and AML Guideline for LCs and SFC-licensed VASPs.
- b. the Phase 2 Report should be the assessor's assessment of the implementation and effectiveness of the actual adoption of the planned policies, procedures, systems and controls. The SFC will grant final approval only if it is satisfied with the findings of the Phase 2 Report.

96. In relation to the selection and appointment of external assessors:

- a. the VA trading platform operator applicant should exercise due skill, care and diligence in the selection and appointment of the external assessor and should 30 consider its expertise, experience and track record in reviewing the areas concerned. The external assessor's capability statement should be submitted to the SFC together with the external assessment report.
- b. separate external assessors may be engaged to review different areas of the business, depending on their expertise, experience and track records.
- c. the external assessor should be independent in the sense that the service provider of a particular system should not also act as the external assessor for the same system.



Thank you

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