

# Proposed Regulatory Regime for Stored Values Facilities and Retail Payment Systems in Hong Kong

LegCo Panel on Financial Affairs

7 April 2014

# Legislative Approach

- Propose to amend the Clearing and Settlement Systems Ordinance (Cap 584) (“CSSO”) –
  - to give effect to the new regulatory framework for stored value facilities (“SVF”) and retail payment systems (“RPS”)
  - to migrate the existing multipurpose stored value card regime under the Banking Ordinance (Cap 155) (“BO”), and to expand it to cover SVF which are not device-based

# Regulatory Framework for SVF

- Propose to implement a licensing regime, covering device-based (e.g. stored value cards) and non-device based (e.g. online stored value account) multipurpose SVF, to ensure the safety and soundness of issuers, and protection of users' float
- Issuing SVF without a licence will be a criminal offence
- No licence is required for single-purpose SVF
- The Hong Kong Monetary Authority ("HKMA") may exempt the following SVF from applying for a licence –
  - SVF for use within, or within close proximity to, the issuer's premises; or
  - SVF for purchasing limited range of goods or services from a limited group of goods and services providers
- As licensed banks are already subject to regulation under BO, they are deemed to be licensed to issue SVF

# Key Licensing Criteria

- Physical presence in Hong Kong – all issuers (including foreign companies) must be a body corporate under Hong Kong law, so that HKMA could exercise effective supervision on SVF provided in Hong Kong
- Principal business – must be the issuing of SVF to ensure proper use of principal resources
- Financial strength – minimum on-going capital requirement of HK\$25 million (in line with the multipurpose stored value card regime under BO)
- Management of float – float must be separated for issues' other funds and must have in place a risk management arrangement
- Fit and proper ownership and management , and prudential risk management – controllers and key management persons must be fit and proper, and have in place appropriate risk management process to commensurate with the scale of business

# Regulatory Regime for RPS

- Cover credit card schemes, debit card schemes, large merchant acquirers, and internet payment gateways
- Propose to enlarge the existing designation regime under CSSO to empower HKMA to designate and oversee RPS, if any disruptions will adversely affect –
  - monetary or financial stability, or the functioning of Hong Kong as an international financial centre;
  - public confidence in payment systems or the financial system of Hong Kong; and/or
  - day-to-day commercial activities in Hong Kong
- RPS run by SVF to support its own operation will be subject to regulation under the SVF licensing regime, and will not be subject to additional regulation under the designation regime
- Designated RPS will be subject to operational safety requirements, including risk management and control, safety and integrity of information, financial soundness, and efficiency requirements, etc.

# Supervisory and Enforcement Powers

- Incorporate relevant provisions of BO, where appropriate, so that HKMA could conduct relevant supervisory functions
- Empower HKMA to conduct investigation on SVF issuers and designated RPS, with reference to the Securities and Futures Ordinance (Cap 571) and the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance (Cap 615)
- Use existing sanctions under BO and CSSO as a basis to devise a range of civil and supervisory sanctions
- HKMA's decisions are subject to checks and balances by the Clearing and Settlement Systems Appeals Tribunal and the Process Review Committee

# Transitional Arrangements

- Propose to give a transitional period of 12 months for existing SVF issuers to apply for SVF licences
- HKMA will discuss with individual SVF issuers the time required to migrate to the new regime to ensure smooth transition

# Public Consultation and Way Forward

- HKMA conducted an industry consultation in early 2013
- The Government conducted a three-month public consultation in mid 2013. Responses generally supported the proposed regulatory framework
- We will take into account comments and suggestions received, where appropriate, in the process of drafting the Bill
- Seek to introduce the Bill into the Legislative Council in the 2014 – 15 Legislative Year



Thank you