

**Bills Committee on
Clearing and Settlement Systems (Amendment) Bill 2015**

**Government's Responses to the Follow-up Actions
Arising from the Discussion at the Meeting held on 2 March 2015**

At the meeting held on 2 March 2015, Members requested the Government to provide information on a number of issues. This paper sets out the relevant information.

I. Proposed Regulatory Regime for Stored Value Facilities and Retail Payment Systems

(a) Criteria for determining a stored value facility (“SVF”) as multi-purpose vis-à-vis single-purpose, and the work in monitoring single-purpose SVF issuers for bringing them under the regulatory regime when their business expands.

2. The proposed licensing regime contained in the proposed Part 2A to be added to the Clearing and Settlement Systems Ordinance¹ (“the Ordinance”) (Clause 17 of the Clearing and Settlement Systems (Amendment) Bill 2015 (“the Bill”)) will cover multi-purpose SVFs, whether device-based or non-device-based. In line with the existing “multi-purpose cards” regime under the Banking Ordinance (“BO”), as well as practices adopted by comparable jurisdictions, we propose that single-purpose SVF will remain not be subject to regulation.

3. The definition of SVF is provided in the proposed section 2A (Clause 6 of the Bill). It is specified in subsection (4) of that section that the proposed regulatory regime does not cover a single-purpose SVF, which essentially means a facility that may be used as a means of making payments for goods or services provided by the issuer only. Indeed, single-purpose SVFs are, in essence, bilateral contractual arrangement between service vendors and their respective users for advance payment for specific goods or services². Given its

¹ By virtue of Clause 4 of the Bill, we propose that the short title of the Ordinance be changed to “Payment Systems and Stored Value Facilities Ordinance” to better reflect the purpose of the legislation after the passage of the Bill.

² Typical examples of single-purpose SVF include stored value cards issued by a coffee shop chain, prepaid coupons and gift cards issued by department stores, cake shop coupons, or other “closed-loop” stored value card schemes (the issuers of which are also the providers of the relevant goods and services).

bilateral nature and magnitude, the degree of “moneyness” entailed by single-purpose SVFs is minimal, posing insignificant risks to the payment and financial systems of Hong Kong. The proposed exemption is in line with the usual practice adopted by comparable jurisdictions including the United Kingdom (“UK”), Singapore and Australia.

4. The proposed section 8B (Clause 17 of the Bill) provides that no person may issue, or facilitate the issue of, an SVF in Hong Kong without a licence granted by the Monetary Authority (“MA”). It will be a criminal offence to issue, or facilitate the issue of, an SVF without being authorized by a licence. In other words, an issuer who intends to expand its SVF business from a single-purpose usage to a multi-purpose one must apply for a licence in accordance with the proposed section 8E. After the passage of the Bill, the MA will monitor the market development, on an on-going basis, through surveillance. The proposed Part 3A (Clause 29 of the Bill) includes provisions to enable the commencement of investigation if the MA has reasonable cause to believe that an offence under the Ordinance may have been committed.

(b) Criteria for determining whether an SVF operating outside Hong Kong is soliciting business from the Hong Kong public, in particular if the SVF does not actively promote its business, or claims that it incidentally attracts Hong Kong consumers to use its services.

5. As mentioned, the proposed section 8B requires a person to hold a licence to issue an SVF, unless it is a single-purpose SVF or an exempt facility (see the proposed Division 8 of Part 2A, and the proposed Schedule 8). In this regard, this licensing regime essentially governs the issue of any SVF in Hong Kong. The proposed section 8ZZZJ (Clause 17 of the Bill) prohibits a person from publishing an advertisement relating to the issue of an SVF that may only be issued under a licence, unless the advertisement relates to the issue of the facility by a licensee and the licence number is clearly stated in the advertisement. The Bill does not restrict any entity from issuing an SVF outside Hong Kong.

6. We propose to add a definition of “issue” in section 2 of the Ordinance (Clause 5 of the Bill) so that its meaning will include, in relation to an SVF, “the operation of the facility by the issuer for use by the user of the facility after its issue”. In determining whether an

issuer is “issuing” or “operating” an SVF in Hong Kong (and one which has to be licensed), the MA may, having regard to similar supervisory experience in monitoring e-banking service, look into relevant circumstances such as (a) the place of the issue of the SVF in question; (b) the denomination of the value stored in the facility; (c) the location for the delivery of the facility and the subsequent customer service to facility holders; (d) the degree of the acceptance of the use of the facility in Hong Kong for making payments for goods and services; (e) the location for and the manner in which a facility holder may store value or additional value onto the facility; or (f) the representation made in any advertisements regarding the location of the issue of the facility and the usage of that facility. The MA will consider the circumstances in its totality in enforcing the relevant provisions.

(c) MA’s regulation over a licensed SVF issuer if its systems and operations are located outside Hong Kong.

7. To ensure that the MA can exercise effective supervision over SVF licensees, we require a licensee to be a company formed and registered in Hong Kong (the proposed section 8E(2) in Clause 17 of the Bill), and that its principal business must be the issue of the SVFs in Hong Kong (section 1 of Part 2 of Schedule 3)³. We require the licensee to have in place appropriate risk management policies and procedures for managing the risks arising from the operation of its SVF scheme that are commensurate with the scale and complexity of the scheme (section 5 of Part 2 of Schedule 3). In addition, we require the SVF scheme to be prudent and sound, having regard to the purpose, business model and operational arrangement of the scheme, and to be operated with competence in a manner that will not adversely affect the stability of any payment system in Hong Kong and the interests of the relevant facility users or potential users (section 10 of Part 2 of Schedule 3). The MA will have to be satisfied that the above minimum licensing criteria, among others, are satisfied, before granting a licence. This will help ensure the prudent operation of an SVF issuer in the interest of users in Hong Kong, even though some components of its systems may be located, or linked to other systems, outside Hong Kong.

³ We propose, under the proposed section 8G in Clause 17 of the Bill, that a bank is regarded as being granted a licence, as it has been authorized by the MA to operate a banking business under the BO and is subject to the consolidated supervision by the MA. If a bank operates a SVF business, the relevant business will have to be regulated under the provisions in the Bill.

8. The Bill contains amendments or new provisions to empower the MA to request information or documents (proposed amendments to section 12 under Clause 21 of the Bill); examine books, accounts and transactions (proposed section 12A under Clause 22 of the Bill); give directions (proposed amendments to section 13 under Clause 23 of the Bill); and issue guidelines (proposed amendments to section 54 under Clause 45 of the Bill). These proposed provisions will empower the MA to conduct on-site and off-site examinations, and to exercise appropriate supervisory powers on the licensed facilities in future.

(d) Determination of the scope of the local business and the float size of an SVF for consideration of exemption from the Hong Kong regulatory regime if the SVF operates in various jurisdictions.

9. As mentioned in paragraphs 5 to 6 above, the proposed SVF licensing regime seeks to regulate SVFs issued in Hong Kong by licensees, which must be incorporated in Hong Kong and licensed under the Ordinance. The Bill will not have jurisdiction over SVFs issued outside Hong Kong by any entity (even though it may be the group company of a licensee operating in Hong Kong). In determining the float or float size for the purpose of the Ordinance (for instance, section 7 of Part 2 of the proposed Schedule 3 in relation to the management of the SVF float; or sections 4 and 5 of the proposed Schedule 8 in relation to exemption⁴), the MA will only take into account the float in relation to the facility licensed or issued in Hong Kong.

(e) Coverage under the Hong Kong regulatory regime in respect of pre-paid credit cards or debit cards issued in Hong Kong, or those issued outside Hong Kong but accepted for use in Hong Kong.

10. A pre-paid card falls into the definition of SVF, as defined in the proposed section 2A (Clause 6 of the Bill), as it allows a user to store value onto the card for making payments to merchants or service providers participating in a card network. An issuer of a pre-paid card will fall into the proposed SVF licensing regime if the card is issued in Hong Kong.

⁴ Under the relevant provisions in the proposed Schedule 8, there will be exemption for SVFs used within a limited group of goods or services providers, or within a restricted area of premises, if the amount of the float of the facility (or the aggregate amount of the float of all relevant facilities) does not exceed HK\$1 million.

11. A debit card refers to a payment card issued by a bank that allows a user to have payments directly charged to the deposits on the bank account concerned. If a debit card is one issued outside Hong Kong, it will fall outside the proposed SVF licensing regime. That said, a debit card scheme (whether or not the card *per se* is issued in Hong Kong) is a retail payment system (“RPS”) which can be subject to the proposed designation framework and the relevant regulatory requirements, if the MA is of the opinion that the system is or is likely to become a RPS whose proper functioning is material to the monetary or financial stability of Hong Kong, or material to the functioning of Hong Kong as an international financial centre (see amendments to section 4(1) under Clause 10 of the Bill). If a debit card scheme is so designated for the purposes of the Ordinance, the MA may impose requirements on the activities carried out through the designated RPS (the proposed section 6A under Clause 13 of the Bill), and other operational, safety or efficiency requirements (the proposed amendments to sections 7 and 8 under Clauses 14 and 15 of the Bill).

II. Liabilities on Internet Service Providers (“ISPs”)

(f) Potential legal liabilities on ISPs providing web hosting or other internet services to unlicensed SVF or designated RPS; details of safe harbour provisions and regulatory/enforcement guidelines under consideration for clarifying the liabilities and protecting the interests of ISPs; and other related legislation

12. The proposed section 8C (Clause 7 of the Bill) provides that a person must not knowingly promote or otherwise assist another person in issuing, or facilitating the issue of, an unlicensed SVF, including by means of providing network or internet portal access or any other technological means. It will be a criminal offence for the person who contravenes this requirement without a reasonable excuse.

13. As a defence of “reasonable excuse” is already available under the proposed section 8C to persons charged with offences under that section, we do not consider it necessary to have additional safe harbour provisions or exemptions. After the passage of the Bill, the MA may issue guidelines under the proposed amendments to section 54 (Clause 45 of the Bill) to facilitate the compliance with the Ordinance.

III. Protection of Consumer Interests

(g) How the Hong Kong regulatory regime for SVF will enhance protection of consumers' interests, in particular in relation to the recovery of the outstanding stored value when an SVF issuer defaults

14. The primary regulatory concern of SVF stems from the need to protect users' stored value remaining on the facility (i.e. the float) maintained by SVF issuers for the sake of financial stability. The proposed SVF licensing regime will provide for a regulatory framework to ensure the integrity and competence of SVF issuers, as well as the proper float protection and management, to safeguard the interest of facility users. Specifically, section 7 of Part 2 of the proposed Schedule 3 requires a SVF licensee to (a) have in place and implement adequate risk management policies and procedures for managing the float or SVF deposit to ensure that there will always be sufficient funds for the redemption of the stored value that remains on the facilities; and (b) ensure that at all times the float or SVF deposit is kept separate from any other funds paid to or maintained or received by the company and is adequately protected by the measures adopted by the company for protecting the float or deposit. Moreover, under section 8 of Part 2 of the same Schedule, the SVF licensee must redeem in full the total of the stored value that remains on the facility as soon as practicable after being requested by the user to do so. These minimum licensing criteria, among others, will have to be fulfilled by the licensee, on an on-going basis, by virtue of the proposed section 8Q (Clause 17 of the Bill).

(h) Education and publicity measures to promote public understanding of the Hong Kong regulatory regime

15. We seek to enhance the public's awareness of the proposed licensing and designation regime introduced by the Bill. In relation to licensed SVFs in future, the MA must establish and keep a register of such licensees under the proposed section 8ZZZF (Clause 17 of the Bill). The register will be available online for public inspection. In relation to any designation of RPS for regulatory purposes, the designation will take the form of a gazette notice, under section 4(1) of the Ordinance, to keep the public informed. In addition, upon the passage of the Bill, the MA plans to roll out relevant education and publicity programmes to enhance the understanding by the retail public in the usage of relevant payment facilities and the protection afforded

under the proposed regulatory regime.

16. As mentioned in paragraphs 7 and 14 above, the minimum licensing criteria for SVFs as set out in the proposed Schedule 3 relate to requirements regarding prudential and risk management, management of float and SVF deposit, redemption of outstanding stored value, and prudent and sound operation of the schemes. The proposed amendments to section 8 (Clause 5 of the Bill) will impose a series of safety and efficiency requirements on RPS operators, in relation to the risk management and control procedures relating to the operation and the soundness of the designated systems, as well as to the services to be provided for relevant users. Accordingly, the MA will expect the SVF licensees or operators of designated RPS to establish a sound mechanism to deal with complaints, enquiries or disputes, as in the case of authorized institutions subject to the supervision by the MA under the BO. In addition, the MA has in place its own complaints handling mechanism to address the needs of clients in relation to the regulatees subject to the MA's supervision.

IV. Regulatory Experiences of Comparable Jurisdictions and Cross-boundary Cooperation

(i) Comparison of the proposed regulatory regime for SVF and RPS with those in major jurisdictions outside Hong Kong

17. The global retail payment landscape has been developing rapidly in the past decade. New forms of retail payment products and services have been emerging. To ensure the safety and soundness of these products and services, relevant jurisdictions, such as the UK, the United States, Australia, Singapore, and the Mainland, have put in place regulatory frameworks for electronic payment facilities respectively, with a view to ensuring that their operations are safe and efficient, thereby maintaining financial stability and public confidence. We have made reference to such relevant experiences in drawing up our proposal contained in the Bill where appropriate.

18. In relation to the regulation of stored value payment products, all major jurisdictions have established a licensing or authorization regime, requiring issuers to obtain a licence or authorization before they can issue stored value payment products. Sanctions will apply to the issue of such products without being licensed or authorized. This is driven by the need to safeguard users' float stored on the facilities, and to ensure the ability and competence of

issuers in the interest of users. In these places, banks are usually not required to be licensed or authorized separately for operating stored value payment products, as they are usually subject to consolidated supervision by the banking regulator of the jurisdiction concerned.

19. Among the jurisdictions we have studied, the licensing or authorization regime covers usually both device-based and non-device-based stored value payment products. In view of the materiality of the risk posed to the payment and financial systems, single-purpose stored value payment products are usually exempt from the regulatory regime. A number of major jurisdictions exempt certain SVF from regulation, if they are used only within a limited group of service providers or for a limited range of goods or services, or if the float size of a facility is insignificant in the terms of the risks for financial stability. Our proposed regulatory regime in Hong Kong has a similar arrangement to exempt single-purpose SVF and those facilities with a limited business scale (see the proposed section 2A under Clause 6 of the Bill, and the proposed Schedule 8). This is in line with practices adopted by major jurisdictions and the existing “multi-purpose cards” regime under the BO, as mentioned in paragraph 2 above.

20. Regarding the minimum criteria for licensing or authorization, most jurisdictions require issuers of stored value payment products to be locally incorporated to facilitate supervisions. Some jurisdictions, such as the UK and Singapore, require issuer to segregate the stored value payment products business from other businesses to avoid any contagion effect on the relevant stored value liabilities. In addition, issuers in these places are required to satisfy relevant initial and on-going capital requirements. In respect of the protection of users’ float, most jurisdictions require issuers to have prudent financial measures to safeguard the float. Issuers are also subject to requirements on risk management, internal governance and controls, fitness and propriety of management, and measures against money laundering or terrorist financing. As mentioned in paragraphs 7 and 14 above, our proposed licensing regime for SVFs carries similar criteria as the basis for licensing decisions (see the proposed Schedule 3).

21. Regarding the regulation of payment systems clearing and settling payment obligations for retail activities, these systems are generally subject to prudential regulation under a designation regime in major jurisdictions, in view of their relative importance to financial stability. The relevant regulator is empowered to designate payment systems depending on their materiality of their business scale and bring

them into the scope of regulation. For example, the UK Treasury may designate a payment system, for regulation by the Financial Conduct Authority, if deficiencies in the design of the system or disruption in its operation would have serious consequences. The Monetary Authority of Singapore is empowered to designate payment systems that are considered important in terms of financial stability or public confidence. Likewise, the Australian Prudential Regulatory Authority implements a designation framework under which the Reserve Bank of Australia may designate a payment system if it considers that the designation for regulation would be in the public interest. Once a payment system is designated, this brings the system's participants (such as the operators, infrastructure providers, and payment service providers) under the supervision of the regulator. This designation regime provides flexibility to bring emerging payment systems and participants into the regulatory net, as and when they meet the threshold for designation. This arrangement is in line with our proposal to enlarge the existing "designation regime" under the Ordinance covering large-value clearing and settlement systems to cover also RPS in future.

22. The supervision and enforcement authority of stored value payment products and RPS in the comparable jurisdictions is usually the respective financial regulator for the banking sector. Relevant enforcement and supervisory powers would be provided to them in order to exercise effective regulation. A range of civil and criminal sanctions are provided to ensure compliance with the regulatory regime.

23. We have compiled a table at **Annex A** to set out the essential features of the relevant regulatory regime in comparable jurisdictions with reference to available information.

(j) List of jurisdictions MA intends to enter into a memorandum of understanding ("MOU") with on the cooperation for exchange of information and enforcement against relevant SVF issuers and RPS operators

24. We envisage the need in future for the MA to liaise and cooperate with a relevant authority outside Hong Kong to maintain and promote the safety in the operation of the licensed SVFs and designated RPS. It is common for financial regulators in this regard to enter into MoU to facilitate the sharing of supervisory information and the conduct of cross-boundary supervision. The MA is minded to pursue this kind of cooperation with a relevant authority outside Hong Kong, whenever the regulatory or enforcement situation will warrant so, to

perform the functions provided for in the Bill effectively. The signing of such arrangements may only be pursued after the passage of the Bill, and therefore at this stage we are not able to list the jurisdictions relevant to future cooperation.

(k) The SVF and RPS regulatory regime in the Mainland

25. The People's Bank of China is the responsible authority supervising third party payment services providers (e.g. pre-paid cards, internet payment systems, etc.) in the Mainland. We understand from available sources that, by July 2014, more than 260 licences have been issued to provide such payment services. The essential features of the regulatory regime in the Mainland are summarised at **Annex A**. We do not have relevant information regarding the enforcement and compliance of the relevant licensed service providers.

(l) List of issuers or system operators which have indicated interest in setting up/providing SVF or RPS services in Hong Kong, and details of the current regulation they are subject to in other jurisdictions

26. During the formulation of the proposed regulatory regime, we have engaged and consulted the public and relevant market players. We append a list of respondents to our previous consultation at **Annex B** for reference. Some of these players may have already operated a payment facility or system which may potentially fall into the regulatory regime proposed in the Bill, while some others have indicated interest in operating the relevant payment business in future. The table at **Annex A** is relevant to the regulatory environment under which some of these players operate their payment businesses in the relevant jurisdictions.

**Financial Service and the Treasury Bureau
Hong Kong Monetary Authority
20 March 2015**

Comparison of the Proposed Regulatory Regime for Stored Value Facilities (“SVF”) and Retail Payment Systems (“RPS”) with Other Jurisdictions

		Hong Kong	United Kingdom	Australia	Singapore	The Mainland	United States
1.	Relevant legislation	Payment Systems and Stored Value Facilities Ordinance	Electronic Money Regulations 2011 (“EMR”) Payment Services Regulations 2009 (“PSR”)	Payment Systems (Regulation) Act 1998 (“PSRA”)	Payment Systems (Oversight) Act 2006 Payment Systems (Oversight) (Amendment) Act 2013	“Administrative Measures on Payment Services Provided by Non-financial Institutions” (PBoC 2010 Decree No.2)	Uniform Money Services Act (2000, am.2004) (“UMSA”) Electronic Funds Transfer Act 1978
2.	Regulator	Hong Kong Monetary Authority (“HKMA”)	Financial Conduct Authority (“FCA”) In relation to banks, building societies, credit unions and municipal banks, Prudential Regulation Authority (“PRA”), an independent subsidiary of Bank of England (“BoE”), will be the lead regulator.	Reserve Bank of Australia (“RBA”) is responsible for enforcing the PSRA. Prudential Regulation Authority (“APRA”) is responsible for authorising and supervising purchased payment facilities (“PPF”). Australian Securities & Investments Commission (“ASIC”) is responsible for licensing non-cash payment (“NCP”) facilities.	Monetary Authority of Singapore (“MAS”)	The People’s Bank of China (“PBoC”)	Vary at Federal and States levels, including Federal Reserve, Office of the Comptroller of the Currency, Financial Crime Enforcement Network of the Treasury Department, Federal Deposit Insurance Corporation, and Consumer Financial Protection Bureau

		Hong Kong	United Kingdom	Australia	Singapore	The Mainland	United States
Regulation of SVF							
3.	Regulation of SVF	Licensing regime	Authorisation regime for electronic money issuers (“EMIs”) and registration regime for Small EMIs	Licensing regime for NCP facility by ASIC, unless it is a PPF authorised by APRA	SVF with stored value equals to or more than S\$30 million will need to be approved by the MAS as “Widely Accepted SVFs” (“WA-SVF”)	Payment Business Licensing regime	Licensing regime
4.	Definition of SVF	SVF is defined as a facility (in physical or electronic form, other than cash) that may be used for storing the value of an amount of money to make payments for goods and services or to another person.	Electronic money (“e-money”) is defined as the monetary value represented by a claim on the issuer that is stored electronically, including magnetically; issued on receipt of funds for the purpose of making payment transactions; accepted as a means of payment by persons other than the issuers.	PPF is defined as a facility (other than cash) which is purchased by a person from another person; and is able to be used as a means of making payments up to the amount that, from time to time, is available for use under the conditions applying to the facility; and those payments are to be made by the provider of the facility or by a person acting under an arrangement with the provider (rather than by the user of the	SVF is defined as a facility (other than cash), whether in physical or electronic form, which is purchased or otherwise acquired by a person to be used as a means of making payment for goods or services up to the amount of the stored value that is available for use under the terms and conditions	Prepaid cards refer to cards or pins issued with value stored using technologies such as magnetic stripes and chips which can be used to purchase goods and services provided not by the card issuer with the purpose of gaining profits.	Stored value device is defined as a card or other device that electronically stores or provides access to funds and is available for making payment to others.

		Hong Kong	United Kingdom	Australia	Singapore	The Mainland	United States
				facility). NCP facility is defined a facility through which a person makes a non-cash payment.	applying to the facility, and payment for the goods or services is made by the holder of the stored value in respect of the facility (rather than by the user).		
5.	Coverage	Device-based and non-device-based multi-purpose SVF	Card-based and network-based pre-paid SVF	Card-based and network-based pre-paid SVF and NCP facility	Card-based and network-based pre-paid SVF	Issuance and acceptance of prepaid cards, acquisition of bank cards, and other payment services as specified by the PBoC	Card-based and network-based pre-paid SVF
6.	Licensing criteria	<ul style="list-style-type: none"> a) Physical presence in Hong Kong; b) Principal business of a licensee must be the issue of SVF; c) The licensee must meet a minimum on-going capital requirement; d) Keep the float separate from other funds of the issuer; 	<ul style="list-style-type: none"> a) Furnish information on programme and business plan; b) Satisfy initial and on-going capital requirements; c) Incorporated and situated in the UK; d) Governance, procedures, and internal control; e) Fit and proper management, sound 	<ul style="list-style-type: none"> a) Restriction from accepting deposits for the purpose of making advances of money; b) Prohibition from representing that it is authorised to carry on the general business of taking deposits; c) Segregate PPF business to avoid 	<p>SVF approval subject to conditions or restrictions the MAS thinks fit</p> <p>WA-SVF issuers are also required to put money received from issuing of SVF in an “approved bank” which</p>	<ul style="list-style-type: none"> a) Non-financial institutions in Mainland China; b) Minimum registered capital; c) Requirements on controllers; d) Fitness and propriety of senior management; e) AML measures; f) Suitable facilities 	The licensing conditions vary from States to States but in general include the applicant's financial condition; the responsibility, financial and business experience, competence,

		Hong Kong	United Kingdom	Australia	Singapore	The Mainland	United States
		and e) “Fit and proper” ownership and management, prudential risk management requirements, and anti-money laundering (“AML”) measures	business plan, and measures to safeguard float; f) Measures against AML; and g) No “close links” with others that may prevent FSA’s effective supervision	contagion effects upon PPF liabilities; d) Must be incorporated in Australia; and e) Must meet requirement on periodic financial reporting	undertakes to be fully liable to the user for the stored value in the SVF	for payment businesses; g) Organizational structure, internal control system and risk management measures; h) Security of operation premises; and i) Integrity of the applicant and senior management	character, general fitness of the directors; and whether it is in the interest of the public to grant permission to the applicant
7.	Exemption	a) SVFs which can only be used within, or in close proximity to, the issuer’s premises, or for the purchase of a limited range of goods or services provided by a limited group of people, and with a float size of less than HK\$1 million b) SVF used for purchasing certain digital products and the payments	Monetary value stored on instruments that may be used to purchase goods and services only in or on the issuer’s premises or within a limited network of services providers or for a limited range of goods or services Monetary value used to make payment transactions executed by any telecommunication, digital or IT device	a) PPF with AUD\$10m or less in outstanding payment value issued; b) The PPF can be used to make payment to 50 or fewer persons; and c) The PPF is guaranteed by an ADI, a Commonwealth, State or local government authority	MAS may exempt specific payment systems or SVF from any or all provisions in the legislation. Currently the following are exempted: a) Single purpose SVF b) SVF with issued value of less than S\$30m needs neither	Single purpose SVFs, e.g. prepaid cards, for payment for– a) social insurance; b) transportation; c) telecom charges; d) services and goods provided by the issuer only	Nil

		Hong Kong	United Kingdom	Australia	Singapore	The Mainland	United States
		are executed through and used in the same telecommunication digital or IT device c) Certain cash reward schemes and bonus point schemes d) Single-purpose SVF	where the goods or services are delivered to and used through such a device, but only where the operator of the device does not act only as an intermediary between user and supplier		registration nor approval However, they are required to put up prominent caveats to notify users that they are not subject to MAS' approval.		
8.	Is value stored in the SVF regarded as “deposit”?	No	No	No	No	Information not available	Yes
9.	Physical presence requirement	Yes A licensee must be a body corporate under Hong Kong law and have a registered office in Hong Kong	Yes The applicant must be either body corporate constitute under the law of the UK, or a body corporate which has a branch that is located in the UK and whose head office is situated in a territory that is outside the European Economic Area	Yes APRA imposes a condition of authorisation that PPF providers be incorporated in Australia. This means that branches of foreign entities would not be permitted to seek authorisation under the BA as a PPF provider	Yes Persons outside Singapore are prohibited to solicit stored value in a SVF in Singapore. Providers of SVFs are therefore required to be incorporated in Singapore if they are to operate in the country	Yes The applicant shall be a limited liabilities company or a limited company lawfully incorporated within the jurisdiction of the People’s Republic of China	No specific requirement

		Hong Kong	United Kingdom	Australia	Singapore	The Mainland	United States
10.	Financial strength	<p>The licensee must meet a minimum on-going capital requirement, so that the aggregate amount of its paid-up capital should not be less than HK\$25 million.</p> <p>See also item (7) above for exemption.</p>	<p>Initial capital for an authorised EMI is €350,000 and the ongoing capital requirement is 2% of the average daily outstanding e-money over 6 months</p> <p>Small EMIs whose business activities generate average outstanding e-money of €500,000 or more must hold an amount of initial and ongoing capital at least equal to 2% of their average outstanding e-money</p>	<p>Minimum Tier 1 capital requirement that is the larger of the following two figures:</p> <p>(i) the minimum start-up capital as determined by APRA; or</p> <p>(ii) 5% of stored value liabilities</p> <p>PPF provider must hold at all times high quality liquid assets equal to its stored value liabilities</p>	<p>No specific requirement. All approved WA-SVF must have an approved bank backing it. The approved bank will be fully liable for all outstanding stored value collected from SVF users</p>	<p>For nationwide payment service, minimum of RMB100 million as registered capital</p> <p>For payment businesses within a province, minimum of RMB30 million as registered capital. The minimum registered capital should be paid-in capital</p>	<p>Ranging from US\$10,000 to US\$3 million, depending on the respective State's requirement</p>
11.	Management of float	<p>A licensee will be required to have in place safeguarding measures that adequately protect the float, and to keep the float separate from other funds of the issuer.</p> <p>The licensee must also have adequate risk management</p>	<p>Float must be deposited either under segregated account or covered by insurance or some other comparable guarantee, e.g. bank guarantee</p>	<p>Float must be held at all times high quality liquid assets equal to its stored value liabilities</p>	<p>For SVF scheme >S\$30 million, issuer must partner with a bank in Singapore to make an application and the approved bank must undertake to be fully liable for the stored value of that stored value facility</p>	<p>Float (or 'clients' reserves) must be deposited at a designated reserve account with a commercial bank unless otherwise required by PBoC;</p> <p>One SVF issuer can open only one such account with one commercial bank</p>	<p>Stored value product providers are required to maintain at all times surety bond or other permissible securities that have a market value of not less than the amount of the average outstanding money</p>

		Hong Kong	United Kingdom	Australia	Singapore	The Mainland	United States
		policies and procedures for float management to ensure that there will be sufficient funds for the redemption of outstanding stored value			For SVF scheme ≤S\$30 million, issuers are recommended to deposit the stored value in a designated bank account or a bank account held on trust for users	The ratio of the paid-in capital and the daily average outstanding float should be no less than 10%	transmission liability The UMSA specifies a list of permissible investments for this purpose, and provides that these investments are held in trust for benefits of purchasers and holders
12.	Sanctions	Yes Proposed civil and supervisory sanctions include minor sanctions, supervisory sanctions, and pecuniary penalty. Also, there are criminal offences for breaches of the regulatory requirements.	Yes The EMR provides that certain contraventions of it are offences which may be tried on indictment or summarily	Yes The PSRA and the BA provide that certain contraventions to be liable for punishment under the Criminal Code and the Crimes Act 1914.	Yes The PS(O)A provides that certain contraventions of it are offences and certain criminal offence	Yes PBoC is empowered to give warnings, impose fines, suspend part or all of the business and revoke the licences	Yes. For example, the UMSA provides general criminal penalties for violations. It also provides varying criminal penalties in the form of a felony and a misdemeanor. The inclusion of the misdemeanor provision suggests that the felony provision should be used only for

		Hong Kong	United Kingdom	Australia	Singapore	The Mainland	United States
							serious violations of the Act
13.	Major supervisory/enforcement/oversight powers	HKMA is empowered to conduct effective on-going supervision over the relevant licensees and operators (including on-site examinations and off-site reviews), gather information, give directions, impose operating rules, make regulations, and issue guidelines, etc.	The FCA adopts the following principles in implementing supervision: <ul style="list-style-type: none"> - Complaints-led and report-based prudential supervision; - request for information from e-money issuers; - cancel, suspend or vary the authorisation, registration or permission of EMIs; - censure or impose a penalty on e-money issuers; - on-site examination, interview, entry into premises with search warrant to search for records and information; - enforce EMIs' financial crime obligations under other regulations 	<ul style="list-style-type: none"> - Request for information from PPF issuers; - conduct examinations; - give directions on failure to comply with conditions of the authority; - impose fines and penalties; - suspend or revoke authorization 	<ul style="list-style-type: none"> - Request for information from issuers of SVFs; - issue written directions to ensure integrity of stored value of SVF - make regulations to ensure that an approved bank is fully liable to the SVF users; standard to be maintained by the issuer of the SVF; - issue codes, guidelines, policy statements, and practices notes for the purpose of discharging MAS' duties under the PSOA; - suspend or 	PBoC may conduct regular and ad hoc on-site and off-site examinations on the corporate governance, business conducts, internal control, risk conditions and AML matters of licensees	The requirements vary from States to States but in general include the following– <ul style="list-style-type: none"> - request for information from and periodic reporting by stored value product issuers; - assessment by on and off-site examinations; - audit of licensees to ensure financial positions and compliance of regulations; - power to suspend, revoke or impose condition on a license; - administration and rule-making powers; - limit the extent

		Hong Kong	United Kingdom	Australia	Singapore	The Mainland	United States
					revoke approval		to which type of investment may be permissible for float investment; and - impose penalties including civil penalties, etc.
Regulation of RPS							
14.	Coverage of RPS	A system or an arrangement for the transfer, clearing or settlement of payment obligations relating to retail activities, principally by individuals, that involves purchases or payments, and includes the related instruments and procedures.	<ul style="list-style-type: none"> - Cash deposits and withdrawals - Execution of payment transactions - Credit transfers, including standing orders - Direct debits, including one-off direct debits - Payment card transactions - Issuing payment instruments or acquiring payment transactions - Money remittance - Execution of payment transactions through the intermediary of a telecom, IT system or network operator 	Any funds transfer system that facilitates the circulation of money and includes any instruments and procedures that relate to the system	A funds transfer system or other system that facilitates the circulation of money, and includes any instruments and procedures that relate to the system	<ul style="list-style-type: none"> - On-line payment includes fund transfer on public or special networks, e.g. remittance, internet payment, mobile payment, fixed-line payment and payment via digital TV network, etc. - Bankcard acquisition 	<ul style="list-style-type: none"> - Money transmission - Sale of payment instruments; - Check cashing; - Foreign currency exchange - Electronic fund transfers businesses under EFTA including debit card transactions; online bill payment; and telephone initiated transfer, etc.

		Hong Kong	United Kingdom	Australia	Singapore	The Mainland	United States
15.	Designation criteria	<p>HKMA may designate an RPS if any disruptions to the RPS are likely to result in any or more of the following–</p> <p>a) monetary or financial stability, or the functioning of Hong Kong as an international financial centre, being adversely affected;</p> <p>b) the public’s confidence in payment systems or the financial system of Hong Kong being adversely affected; or</p> <p>c) day-to-day commercial activities being adversely and materially affected</p>	<p>To satisfy authorisation conditions imposed by FCA for “payment institutions” which include:</p> <ul style="list-style-type: none"> - Furnish information on program and business plan; - Satisfy initial and on-going capital requirements; - Incorporated and situated in the UK; - Governance, procedures, and internal control; - Fit and proper management; sound business plan, and measures to safeguard users’ funds; - AML measures; and - No “close links” with others that may prevent FSA’s effective supervision 	<p>If RBA considers that designating the system is in the interest of the public</p>	<p>If MAS is satisfied that:</p> <ul style="list-style-type: none"> - a disruption in the operations of the payment system could trigger, cause or transmit further disruption to participants or systemic disruption to the financial system of Singapore; - a disruption in the operations of the payment system could affect public confidence in payment systems, or financial system of Singapore; or - it is in the interests of the public to do so 	<ul style="list-style-type: none"> - Incorporation in Mainland China; - Minimum registered capital; - Requirements on controllers; - Fitness and propriety of senior management; - AML measures; - Suitable facilities for payment businesses; - Organizational structure, internal control system and risk management measures; - Security of operation premises; - Integrity of the applicant and senior management 	<p>Authorisation criteria vary between regulators. But in general they are similar to those applicable to banks.</p>
16.	Major supervisory/enforcement/oversight powers	<p>HKMA is empowered to conduct effective on-going supervision on system operators</p>	<ul style="list-style-type: none"> - Supervision of compliance with conduct of business rules and authorisation/registrat 	<ul style="list-style-type: none"> - Impose an access regime on the participants in the payment systems; - Set standards for the 	<ul style="list-style-type: none"> - On-site inspection and investigation, off-site oversight; 	<p>Conduct regular and ad hoc on-site and off-site examinations on the corporate</p>	<p>The requirements vary from States to States but in general include the following–</p>

		Hong Kong	United Kingdom	Australia	Singapore	The Mainland	United States
		and settlement institutions (if any) of designated RPS including on-site examinations and off-site reviews, information gathering, give directions, impose operating rules, make regulations, and issue guidelines, etc.	<ul style="list-style-type: none"> - Information and reporting requirements; - on-site examination, interview, investigation entry into premises with search warrant to search for records and information; - Cancellation of authorisation or registration - Imposition of penalties and censures and order restitutions 	<ul style="list-style-type: none"> - Give directions to participants in the payment systems; - Arbitrate disputes relating to the payment systems 	<ul style="list-style-type: none"> - Request for information; - Make regulations; - Impose conditions or restrictions on activities and operations; - Issue written directions, codes, guidelines, policy statements or practice notes; - Impose requirements on fit and proper management and control of substantial shareholding; - Emergency power to direct actions or take control of designated systems 	governance, business conducts, internal control, risk conditions and AML matters licensees	<ul style="list-style-type: none"> - Assessment and Examination; - Power of exemption; - Power to suspend, revoke or impose condition on a license; - Administration and rule-making powers

		Hong Kong	United Kingdom	Australia	Singapore	The Mainland	United States
17.	Appeal mechanism	Any person aggrieved by decisions of the HKMA may appeal to the Payment Systems and Stored Value Facilities Appeals Tribunal	Any person aggrieved by decisions of the FCA in respect of the PSRs may appeal to the Financial Services and Markets Tribunal established under the Financial Services and Markets Act 2000	Any person aggrieved by decisions of the RBA may request RBA to review its decision and may appeal any adverse decision to the Administrative Appeals Tribunal	Any person aggrieved by decisions of the MAS may appeal to the Minister within 30 days	Information not available	An applicant whose application is denied by the authority may appeal to the Court of Appeal

List of Respondents

1. 99Bill.com
2. Alipay.com.Co., Ltd
3. American Express International, Inc.
4. Asia Internet Coalition
5. AsiaPay Limited
6. Autotoll Limited
7. China Construction Bank (Asia) Corporation Limited
8. China Union Pay Hong Kong Branch
9. Consumer Council
10. Deloitte Touche Tohmatsu
11. Diners Club International
12. DoDoPal Holdings Limited
13. EDENRED Hong Kong
14. Global Payments Asia Pacific Ltd
15. Hong Kong Bar Association
16. Hong Kong Computer Society
17. Hong Kong Retail Technology Industry Association
18. Information System Audit and Control Association
19. JCB International (Asia) Ltd
20. KPMG
21. MasterCard Worldwide
22. Mobexo Ltd
23. MPayMe
24. PayPal Pte. Ltd.

25. Tencent
26. The Hong Kong Association of Restricted Licence Banks and Deposit-taking Companies
27. The Hong Kong Association of Banks
28. The Independent Commission Against Corruption
29. The Law Society of Hong Kong
30. VISA Hong Kong Limited
31. World passport Holdings Ltd
32. 深圳市壹卡會科技服務有限公司
33. Individual respondent A
34. Individual respondent B
35. Individual respondent C
36. Individual respondent D
37. Individual respondent E
38. Undisclosed respondent A
39. Undisclosed respondent B
40. Undisclosed respondent C
41. Undisclosed respondent D