

**For discussion
on 7 February 2022**

Legislative Council Panel on Financial Affairs

**Anti-Money Laundering and Counter-Terrorist Financing
(Amendment) Bill 2022**

PURPOSE

This paper briefs Members on the legislative proposals to enhance the regulatory regime for combating money laundering and terrorist financing (“ML/TF”) in fulfilment of Hong Kong’s obligations under the Financial Action Task Force (“FATF”), thereby safeguarding the integrity of our business environment and reputation as an international financial centre.

BACKGROUND

2. The FATF is an inter-governmental body established in 1989 that sets international standards for combating ML/TF. Comprising 39 major economies of the world, the FATF oversees the implementation of the FATF Standards, promulgated in the form of 40 Recommendations and 11 Immediate Outcomes, through mutual evaluations (i.e. a peer-review process) conducted by member jurisdictions. Failure to comply with FATF Standards, whether in technical terms or effectively, is subject to scrutiny by the international community and runs the risk of being placed on the FATF’s blacklist for possible countermeasures by member jurisdictions.

3. Hong Kong has been a member of the FATF since 1991 and we underwent a mutual evaluation of our anti-money laundering and counter-terrorism financing (“AML/CTF”) regime conducted by the FATF from 2018 to 2019. The Mutual Evaluation Report (“MER”) on Hong Kong, published by the FATF in September 2019, concludes that Hong Kong has a strong legal foundation and effective system for combatting ML/TF, and we have been

placed in the “regular follow-up” process¹ of the FATF. The MER also sets out the FATF’s recommendations on areas to improve in the follow-up process, one being the regulation of dealers in precious metals and stones (“DPMS”). As part of the follow-up process, we are scheduled to undergo a technical compliance assessment by the FATF in February 2023, followed by an effectiveness assessment in June 2024.

4. The FATF also updates its standards from time to time to combat emerging ML/TF risks. In view of the increasing adoption of “virtual assets” (“VAs”), a latest addition to the FATF Standards was introduced in 2019, requiring jurisdictions to subject “virtual asset” service providers (“VASPs”) to the same range of AML/CTF obligations that are currently applicable to financial institutions and designated non-financial businesses and professions (“DNFBPs”). Hong Kong is expected to also put in place an AML/CTF regulatory regime for VASPs for the technical compliance assessment of the follow-up process.

LEGISLATIVE PROPOSALS

5. In view of the FATF’s recommendations and the latest change to FATF Standards set out in paragraphs 3 and 4 above, we propose amending the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (Cap. 615) (“AMLO”) to introduce (a) a licensing regime for VASPs; and (b) a registration regime for DPMS, which will impose statutory AML/CTF obligations on these two sectors. Furthermore, opportunity will be taken to address a number of miscellaneous issues under the AMLO which have been identified in the MER and other FATF contexts.

(A) Licensing Regime for VASPs

FATF Requirements

6. In recent years, trading in VAs has significantly increased, and it is widely recognised that VAs, for all their potentials, pose ML/TF risks to the international financial system given the greater anonymity and decentralisation they offer. Such features can be abused to facilitate layering

¹ As opposed to “enhanced follow-up” for jurisdiction subject to a more rigorous scrutiny in the follow-up process.

or conversion of crime proceeds into fiat money through interfaces with the financial system. VAs also pose considerable challenges for investor protection, due to their highly speculative nature and as evident in their frequent association with fraud, security breach, and market manipulation.

7. To address the ML/TF risks of VA activities, the revised FATF standards require jurisdictions to regulate VASPs by imposing on them the full range of AML/CTF obligations. A task force was set-up under FATF to monitor implementation progress, and Hong Kong is expected to put in place a VASP regulatory regime for the technical compliance assessment of the mutual evaluation follow-up process. To meet the FATF requirements, we propose amending the AMLO to introduce a licensing regime for VASPs. The salient features of the proposed VASP licensing regime, drawn up having regard to the opt-in regime of the Securities and Futures Commission (“SFC”)², are set out in the ensuing paragraphs, with details at Annex A.

Salient Features of the VASP Licensing Regime

8. Having regard to the FATF Standards and the risks presented by VA activities in Hong Kong, we propose to designate the business of operating a VA exchange³ as a “regulated VA activity” under the AMLO and require any person seeking to engage in the regulated activity to obtain a VASP licence from the SFC. Although VA activities, in particular the ones specified by FATF⁴, may also exhibit themselves in business forms other than a VA exchange, we see a case to tailor a licensing regime for VA exchanges considering how they are by far the most prevalent and developed embodiment seen in Hong Kong. Moreover, for other VA activities, we note

² In view of the VA trading activities taking place locally and to address the investor protection concerns so arising, the SFC announced a conceptual framework in November 2018 for the potential regulation of VA trading platforms in Hong Kong. Following discussion with operators, the SFC issued a position paper in November 2019 outlining a set of regulatory standards for the licensing of VA trading platforms in its regulatory sandbox (“opt-in regime”). The opt-in regime only applies to centralized platforms which enable clients to trade VAs and requires such platforms to trade at least one token with securities feature.

³ The intention is to cover any trading platform which is operated for the purpose of allowing an offer or invitation to be made to buy or sell any VA in exchange for any money or any VA (whether of the same or different type), and which comes into custody, control, power or possession of, or over, any money or any VA at any point in time during its course of business.

⁴ In the FATF parlance, a VASP is a person who, as a business, engages in specified activities involving VAs. The specified activities cover (i) exchange between VAs and fiat currencies; (ii) exchange between one or more forms of VAs; (iii) transfer of VAs; (iv) safekeeping and/or administration of VAs or instruments enabling control over VAs; and (v) participation in and provision of financial services related to an issuer’s offer and/or sale of a VA (i.e. initial coin offerings). VA is defined as “a digital representation of value that can be digitally traded, or transferred, and can be used for payment or investment purposes”.

that they either have scanty local presence (e.g. VA payment systems) or their money flow would become traceable for CTF purposes if they make any interface with financial institutions (e.g. crypto-ATM).

9. Consistent with the FATF definition, VA will be defined as a digital representation of value that is expressed as a unit of account or a store of economic value; functions (or is intended to function) as a medium of exchange accepted by the public as payment for goods or services or for the discharge of a debt, or for investment purposes; and can be transferred, stored or traded electronically. The proposed definition of VA will explicitly exclude digital representations of fiat currencies (including digital currencies issued by central banks), as well as financial assets (e.g. securities and authorised structured products) already regulated under the Securities and Futures Ordinance (“SFO”) (Cap. 571). Closed-loop, limited purpose items that are non-transferable, non-exchangeable and non-fungible (e.g. air miles, credit card rewards, gaming coins, etc.) will also be carved out from the definition as it is not the FATF’s intention to catch these items.

10. On eligibility, the SFC will only grant a license if the applicant is able to satisfy a fit-and-proper test. Moreover, only locally incorporated companies with a permanent place of business in Hong Kong or companies incorporated elsewhere but registered in Hong Kong under the Companies Ordinance (Cap. 622) will be considered for the granting of a VASP licence⁵.

11. For accountability considerations, an applicant will also have to appoint at least two responsible officers to assume the general responsibility of ensuring compliance with AML/CTF and other regulatory requirements, and be held personally accountable in case of contravention or non-compliance. Similar to the requirement under the SFO for licensed corporations, all executive directors of a licensed VASP must be made responsible officers upon approval by the SFC. Moreover, as additional safeguards, the SFC will impose upon licensed VASPs a robust set of regulatory requirements including, inter alia, that the licensed VASP should have adequate financial resources, knowledge and experience, risk management policies and procedures, VA listing and trading policies, proper financial reporting and disclosure, as well as mechanisms to prevent market manipulative and abusive activities and conflicts of interest. In addition, the

⁵ In other words, natural persons or business establishments without a legal personality (e.g. sole proprietors or partnerships) will not be eligible.

licensed VASP should only offer services to professional investors at the initial stage. The SFC will continuously monitor the latest development in the market, and review the position, having balanced the importance of investor protection as appropriate.

12. For effective implementation of the regime, the SFC will be provided with supervisory powers for enforcing the AML/CTF and other regulatory requirements. Drawing reference from the SFO, we also propose to provide the SFC with intervention powers to impose restrictions and prohibitions against the operation of a licensed VASP where the circumstances so warrant. This will enable the SFC to protect client assets in the event of an emergency or in the case of misconduct. The proposed legislative amendments will include sanctions to deter unlawful practice and non-compliance including, inter alia, conducting regulated VA activity or actively marketing the same to the Hong Kong public without licence, and non-compliance with AML/CTF requirements.

13. Given that VA exchange is a new line of business distinct from the traditional services provided by entities regulated under the AMLO, we do not propose any exemption in respect of the VASP licensing requirement, except for VA exchange(s) that are already regulated as a licensed corporation in the opt-in regime. Upon commencement of operation of the licensing regime, any existing operators carrying on the regulated activity of operating a VA exchange will be required to file an application with the SFC within 180 days.

(B) Two-tier Registration Regime for DPMS

FATF Requirements

14. DPMS are among the six categories of DNFBPs⁶ defined by the FATF for AML/CTF regulation, primarily due to their involvement in cash transactions which may be abused for ML/TF. Specifically, the FATF requires that DPMS which engage in cash transactions exceeding USD/EUR15,000 (approximately HK\$120,000) be subject to AML/CTF obligations. During the last mutual evaluation, the FATF identified the absence of DPMS regulation as a gap in the AML/CTF regime of Hong Kong,

⁶ Under FATF's definition, "DNFBPs" cover casinos, accounting professionals, DPMS, estate agents, legal professionals, and trust or company service providers. Hong Kong has no casinos, and apart from DPMS, the rest of the sectors are already regulated under AMLO.

and recommended that appropriate AML/CTF obligations be put in place for the sector as a matter of priority.

15. Given the FATF requirement for DPMS, we propose amending the AMLO to introduce a two-tier registration regime for DPMS whereby any person seeking to conduct the regulated business⁷ of dealing in precious metals, precious stones, precious products, or precious-asset-based instruments in Hong Kong for a customer will be required to register with the Commissioner of Customs and Excise (“C of C&E”) as the Registrar for DPMS, with those (and only those) seeking to engage in cash transactions at or above HK\$120,000 during their course of business to be subject to the AML/CTF requirements under Schedule 2 to the AMLO, in addition to meeting a fit-and-proper test for registration. This tiered registration system will allow C of C&E to separate DPMS with higher risk from those less so for AML/CTF supervision while maintaining an up-to-date understanding of the overall sectoral landscape as required by the FATF. The salient features of the proposed registration regime are set out in the ensuing paragraphs, with details at Annex B.

Salient Features of the DPMS Registration Regime

16. Given the FATF requirement for DPMS engaging in large cash transactions be subject to more rigorous AML/CTF scrutiny, there is a need to distinguish persons who engage in large cash transactions from those who do not for application of risk-based regulation. We propose that two categories of registration be introduced under the regulatory regime such that only DPMS who engage in cash transactions at or above HK\$120,000 will be subject to the same set of AML/CTF obligations currently applicable to other DNFBPs, while allowing the rest a lighter touch of supervision. Specifically, Category A registration⁸ is required for DPMS who do not intend to and will not engage in any cash transactions at or above HK\$120,000, and the

⁷ Specifically, this includes (a) trading in (i.e. selling, offering for sale, purchasing or possessing for sale/resale), importing, or exporting precious metals, precious stones or precious products; (b) manufacturing, refining, or carrying out any value-adding work (e.g. cutting, polishing, etc.) on precious metals, precious stones or precious products; (c) issuing, redeeming, or trading in (as defined) precious-asset-backed instruments; or (d) acting as an intermediary for (a), (b) or (c) above.

⁸ Category A applicants only need to present a valid business registration certificate, addresses of all premises in Hong Kong pertaining to the place of business, and a declaration that the registration is obtained for a lawful purpose. Category A registrants are not subject to the AML/CTF obligations stipulated in Schedule 2 to the AMLO or any registration requirements other than to notify the Registrar of any subsequent changes in particulars. Category A registration will remain valid for as long as the DPMS continues to stay in business, subject only to the payment of an annual fee.

registration is simple and straightforward. Category B registration⁹ is applicable to DPMS who intend to or may engage in any cash transaction at or above HK\$120,000.

17. To avoid regulatory overlap, we propose to exempt financial institutions that are already regulated under the AMLO¹⁰, as well as pawnbrokers which are already subject to the regulation of the Pawnbrokers Ordinance (Cap. 166), from the registration requirement, where they conduct the regulated activities of DPMS as an ancillary to their principal business. The exemption does not apply to other DNFBPs supervised under the AMLO, as presently they are obliged to observe the AML/CTF requirements in Schedule 2 to AMLO only when they engage in specified transactions of their respective sectors, which do not include the regulated activities of DPMS.

18. Considering that dealers from other jurisdictions may visit Hong Kong occasionally for jewellery trade fairs, an exemption from registration is also proposed for these “non-domestic dealers”¹¹ as they pose lower ML/TF risks due to their transitory nature. To mitigate the ML/TF risks of non-domestic dealers, they will be required to file a cash transaction report with the Registrar when they engage in a cash transaction at or above HK\$120,000 in Hong Kong, and within one day upon completion of the transaction (and in any event before their departure from Hong Kong). Such reports will enable the Registrar to detect suspicious transactions and conduct follow-up investigations as necessary.

19. We propose providing the C of C&E (i.e. the Registrar for DPMS) with relevant powers for effective implementation of the regime including, inter alia, those for enforcing the registration requirements, as well as for supervising the AML/CTF conduct of registrants. The proposed legislative amendments will also include sanctions to deter unlawful practice and non-compliance including, inter alia, conducting by way of business one or more

⁹ For Category B registration, an applicant will be subject to a fit-and-proper test similar to that applicable to other DNFBPs regulated under the AMLO. Category B registrants will also be required to observe the AML/CTF obligations under Schedule 2 to the AMLO when they engage in specified cash transactions and supervised by the Registrar in this regard. A Category B registration will be valid for three years and renewable upon expiry where fit-and-proper requirements are met.

¹⁰ That is, banks, licensed corporations, insurance institutions, money service operators, and stored value facilities.

¹¹ A non-domestic dealer qualified for exemption will be a person who (i) does not ordinarily reside in Hong Kong; (ii) does not have a permanent place of business in Hong Kong; and (iii) carries out a regulated activity in Hong Kong for no more than a total of 60 calendar days in any given year.

of the regulated activities without registration, engaging in a specified cash transaction (i.e. at or above HK\$120,000) without a Category B registration and contravening the AML/CTF requirements in the AMLO.

20. To facilitate the trade's migration to the registration regime, a transitional arrangement will be provided for in the amendment bill. Specifically, DPMSs who have been in operation immediately before commencement of the regime will be allowed 270 days to apply for registration¹². During the transitional period, DPMSs carrying on a business of regulated activities will be deemed to have been registered for the purpose until such time when an application is granted.

(C) Miscellaneous Amendments

21. In addition to the regulatory regimes for VASPs and DPMS, a number of technical issues relating to the AMLO, identified in the FATF's MER on Hong Kong and other FATF contexts, will be addressed in the proposed legislative amendments -

- (a) amending the technical definition of “politically exposed person” in accordance with the FATF requirement, and empowering regulatory authorities to make guidelines to allow a risk-sensitive approach in determining the degree of customer due diligence that such persons are subject to;
- (b) better aligning the definition of “beneficial owner” in relation to a trust under the AMLO with that of “controlling person” under the Inland Revenue Ordinance (Cap. 112), by clarifying that, where a trust is concerned, it includes trustees, beneficiaries and class(es) of beneficiaries;
- (c) allowing the engagement of digital identification systems to assist the conduct of customer due diligence in situations where a customer is not physically present for customer identification and verification purposes (i.e. non-face-to-face situations);

¹²Taking into account the large number of establishments and operations which may apply for registration and to facilitate smooth migration to the registration regime, the transitional period is adjusted from 180 days (as mentioned in the public consultation under paragraph 22 below) to 270 days.

- (d) enhancing the deterrent effect for unlicensed money service operation by raising the sentencing level to a fine of \$1,000,000 and imprisonment for two years; and
- (e) consolidating the different provisions under various Ordinances enabling regulatory authorities and bodies to exchange supervisory information for AML/CTF purposes into a unified provision under the AMLO.

PUBLIC CONSULTATION

22. We conducted a public consultation from 3 November 2020 to 21 January 2021 on the proposed legislative amendments. The consultation conclusions¹³ were published in May 2021. Overall speaking, there is broad support for the Government to strengthen Hong Kong's AML/CTF system having regard to international standards, in keeping with our status as an international financial centre. A majority of the respondents indicated agreement with the overall direction and principles, as well as the board framework of the legislative proposals.

23. Having regard to the responses, we have made a number of refinements to the legislative proposal, such as allowing companies incorporated elsewhere but registered in Hong Kong under the Companies Ordinance to be eligible for applying for a VASP licence, exempting licensed pawnbrokers from the DPMS registration regime, and shortening the 90-day exemption threshold for non-domestic DPMS to 60 calendar days. We will continue with the preparation of the legislative amendments having regard to the views gathered from the public consultation.

LEGISLATIVE TIMETABLE

24. Subject to Members' views, our target is to introduce an amendment bill into the Legislative Council in the second quarter of 2022.

¹³ https://www.fstb.gov.hk/fsb/en/publication/consult/doc/consult_conclu_amlo_e.pdf

ADVICE SOUGHT

25. Members are invited to provide views on the proposed legislative amendments as set out in paragraphs 5 to 21 above.

Financial Services and the Treasury Bureau
January 2022

**Details of the Proposed Virtual Asset Service Providers
Licensing Regime**

1. In recent years, trading in cryptocurrencies and other asset classes in the virtual world has significantly blossomed, and it is widely recognised that these “virtual assets” (“VAs”), for all their potentials, pose significant money laundering and terrorist financing (“ML/TF”) risks to the international financial system. VAs are vulnerable to ML/TF risks because they allow greater anonymity and decentralization than traditional transfer, safe-keeping or custodian means, and such features can be easily abused to facilitate layering or conversion of crime proceeds into fiat money through interfaces with the financial system. VAs also pose considerable challenges for investor protection, due to their highly speculative nature and as evident in their frequent association with fraud, security breach, and market manipulation.
2. To address the ML/TF risks of VA activities, the Financial Action Task Force (“FATF”) revised its Standards, under Recommendation 15, in 2019 to require jurisdictions to regulate “virtual asset” service providers (“VASPs”) for anti-money laundering and counter-terrorism financing (“AML/CTF”) purposes and supervise their compliance. In essence, the FATF requires jurisdictions to impose on VASPs the full range of AML/CTF obligations that are currently applicable to financial institutions and designated non-financial businesses or professions (“DNFBPs”). Prohibition is a permissible option, or VASPs can be licensed or registered and subject to the same AML/CTF requirements as financial institutions and DNFBPs. Following the promulgation of the revised Recommendation 15, the FATF has set up a task force to monitor implementation progress, and major economies either have set up or are in the process of setting up regulatory and supervisory regimes for VASPs.

3. Whilst VAs are not legal tender and not generally accepted as a means of payment in Hong Kong, we have noticed some VA trading activities operating locally. To address the investor protection concerns so arise, the Securities and Futures Commission (“SFC”) announced a conceptual framework in November 2018 for the potential regulation of VA trading platforms in Hong Kong. Following discussion with operators in the market, the SFC issued a position paper in November 2019¹ outlining a set of regulatory standards, which are comparable to those applicable to licensed securities brokers and automated trading venues, for the licensing of VA trading platforms in its regulatory sandbox (hereafter as the “opt-in regime”). The opt-in regime only applies to centralized platforms which enable clients to trade VAs and requires such platforms to trade at least one token with securities feature. Platforms solely trading non-securities VAs are not covered.
4. As the world competes to embrace the development of financial innovation and technology, being an international financial centre we see a case to tap the potentials and harness the opportunities presented by VAs and their underlying technologies. It would be prudent for us to introduce VASP regulation whilst the sector is still developing, so as to mitigate the ML/TF risks of the sector, provide an appropriate level of investor and customer protection, and foster the development and adoption of financial innovation in a proper and orderly manner. The SFC’s opt-in regime provides a useful reference for statutory regulation of VASPs under the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (Cap. 615) (“AMLO”) to implement the latest FATF requirements.
5. To implement the FATF requirement, we propose amending the AMLO to introduce a licensing regime for VASPs and subject them to a fit-and-proper test similar to that of other financial sectors. Licensed VASPs will be required to observe the AML/CTF requirements under Schedule 2 to the AMLO, as well as other regulatory requirements designed to ensure the protection of

¹ The Position Paper on Regulation of Virtual Asset Trading Platforms is available at [https://www.sfc.hk/web/EN/files/ER/PDF/20191106%20Position%20Paper%20and%20Appendix%20to%20Position%20Paper%20\(Eng\).pdf](https://www.sfc.hk/web/EN/files/ER/PDF/20191106%20Position%20Paper%20and%20Appendix%20to%20Position%20Paper%20(Eng).pdf)

market integrity and investor interest. To ensure a level playing field, reference will be made to the opt-in regime operated by the SFC for VA trading platforms in determining the parameters of the VASP regime under the AMLO.

Scope and Coverage

6. In the FATF parlance, a VASP is a person who, as a business, engages in specified activities involving VAs. The specified activities cover (i) exchange between VAs and fiat currencies; (ii) exchange between one or more forms of VAs; (iii) transfer of VAs; (iv) safekeeping and/or administration of VAs or instruments enabling control over VAs; and (v) participation in and provision of financial services related to an issuer's offer and/or sale of a VA². VA is defined as *"a digital representation of value that can be digitally traded, or transferred, and can be used for payment or investment purposes"*.
7. Having regard to the FATF Standards and the risks presented by VA activities in Hong Kong, we propose to designate the business of operating a VA exchange as a "regulated VA activity" under the AMLO and require any person seeking to engage in the regulated activity to obtain a VASP licence from the SFC, subject to the meeting of a fit and proper test and other regulatory requirements. A VA exchange will be defined as any trading platform which is operated for the purpose of allowing an offer or invitation to be made to buy or sell any VA in exchange for any money or any VA (whether of the same or different type), and which comes into custody, control, power or possession of, or over, any money or any VA at any point in time during its course of business.
8. Peer-to-peer trading platforms (i.e. platforms that only provide a forum where buyers and sellers of VAs can post their bids and offers, with or without automatic matching mechanisms, for the parties themselves to trade at an outside venue), to the extent that the actual transaction is conducted outside the platform and the

² Commonly referred to as initial coin offerings.

platform is not involved in the underlying transaction by coming into possession of any money or any VA at any point in time, are not covered under the above definition of VA exchange.³

9. Consistent with the FATF definition but in more specific terms, we propose to define VA as a digital representation of value that is expressed as a unit of account or a store of economic value; functions (or is intended to function) as a medium of exchange accepted by the public as payment for goods or services or for the discharge of a debt, or for investment purposes; and can be transferred, stored or traded electronically.
10. The proposed definition of VA does not cover digital representations of fiat currencies (including digital currencies issued by central banks), as well as financial assets (e.g. securities and authorized structured products) already regulated under the Securities and Futures Ordinance (“SFO”) (Cap. 571). Closed-loop, limited purpose items that are non-transferable, non-exchangeable and non-fungible (e.g. air miles, credit card rewards, gift cards, customer loyalty programmes, gaming coins etc.) will also be carved out from the definition as it is not the FATF’s intention to catch these items. VAs purportedly backed by some form of assets for the purpose of stabilising their value (i.e. the so-called “stablecoins”) are covered by the definition as the FATF Standards apply equally to coins that are stable or not.
11. While a VA exchange would typically involve the five types of activities intended for regulation by the FATF, we reckon that the FATF-regulated activities may also exhibit themselves in business forms other than a VA exchange (such as a stand-alone VA payment or custodian system). A VA exchange is however by far the most prevalent and developed embodiment (in terms of both scale and complexity) seen in Hong Kong. For consideration of harnessing the opportunities presented by financial innovation and digital transformation while mitigating the risks they pose, we see a case to tailor a licensing regime for VA exchanges.

³ The FATF Guidance Note on VA and VASPs states that peer-to-peer trading platforms may not constitute a VASP as defined under the FATF Standards.

12. For VA activities conducted outside VA exchanges, we note that their presence in Hong Kong is scanty and negligible. We note that VA payment systems or VA custodian services operating as a stand-alone business in Hong Kong are limited. We do not see initial coin offerings which are active in Hong Kong following repeated warnings by the SFC in the past few years. Over-the-counter trade and crypto-ATMs of limited scale exist, their money flow would become traceable for CTF purposes if they make any interface with financial institutions. Like any other legal or natural persons in Hong Kong, they are also subject to the statutory obligations of reporting suspicious transactions and implementing targeted financial sanctions promulgated by the United Nations Security Council. We will nevertheless keep in view the evolving landscape and consider the need for regulation when the market is ready. For now, flexibility will be built in the licensing regime such that it may be expanded to cover forms of VA activities other than VA exchanges where the need arises in future.

Licensing Requirements

Eligibility

13. Any person seeking to operate the regulated activity of VA exchange will have to apply for a licence from the SFC as a licensed VASP under the AMLO. Considering that the effective operation of a VA exchange will necessarily entail a permanent establishment of proper scale and construction to ensure governance and continuity, we propose that only locally incorporated companies with a permanent place of business in Hong Kong or companies incorporated elsewhere but registered in Hong Kong under Companies Ordinance (Cap. 622) will be considered for the granting of a VASP licence. Natural persons or business establishments without a legal personality (e.g. sole proprietors or partnerships) will not be eligible for a VASP licence. The physical presence requirement is instituted to ensure that local anchorage is available for the SFC to supervise the conduct of

licensed VASPs and enforce regulatory requirements.

Fit-and-Proper Test

14. An applicant has to satisfy a fit-and-proper test, applicable also to other financial institutions regulated under the AMLO, to be considered for the granting of a VASP licence. The fit-and-proper test will cover all responsible officers and ultimate owners of the corporate entity, and any change in this relation would require prior approval by the SFC. In considering whether a person is a fit and proper person, the SFC will take into account, among other relevant considerations, for example, whether the person has been convicted anywhere of an ML/TF offence or other offence in which the person is found to have acted fraudulently, corruptly or dishonestly; whether the person has failed or may fail to observe the AML/CTF or other regulatory requirements applicable to licensed VASPs; the experience and relevant qualifications of the person; and whether the person is of a good standing and financial integrity (e.g. not being the subject of any bankruptcy or liquidation proceedings).
15. To ensure the proper management of a licensed VASP, for accountability consideration an applicant will have to appoint at least two responsible officers to assume the general responsibility of ensuring compliance with AML/CTF requirements and other regulatory requirements, and be held personally accountable in case of contravention or non-compliance of the requirements. Similar to the requirement under the SFO for licensed corporations, all executive directors of a licensed VASP must be made responsible officers upon approval by the SFC.

Regulatory Requirements

16. A licensed VASP will be required to observe the AML/CTF requirements stipulated in Schedule 2 to the AMLO.
17. On top of that, given the tech-savvy and highly speculative nature of the VA industry, we consider it necessary for licensed VASPs to be subject to a robust set of regulatory requirements to ensure that

they have the capacity and know-how to operate the VA business properly, so as to mitigate the risks posed to investors arising from system failure, security breach or market manipulation.

18. With reference to the opt-in regime, we propose to empower the SFC to impose, and vary as need be, licensing conditions, on licensed VASPs, and implement regulatory requirements⁴ covering, *inter alia*, the following –

- (a) Professional investors only – at the initial stage, the licensed VASP should only offer services to professional investors. The SFC will closely monitor the latest development in the market, and review whether, having balanced the importance of investor protection, there is a need to modify such requirement;
- (b) Financial resources – the licensed VASP should have adequate financial resources, for operating its VA business, including a paid-up share capital of a specified amount and liquid assets, depending on the nature of its business;
- (c) Knowledge and experience – the licensed VASP and its associated entities should have a proper corporate governance structure staffed by personnel with the necessary knowledge and experience to enable the effective discharge of responsibility;
- (d) Soundness of the business – the licensed VASP and its associated entities should operate its VA business in a prudent and sound manner, and ensure that client and public interests will not be adversely affected;
- (e) Risk management – the licensed VASP should have in place appropriate risk management policies and procedures for managing ML/TF, cybersecurity and other risks arising from a regulated VA activity that are commensurate with

⁴ The SFC will prepare and publish for consultation the regulatory requirements, including the codes and guidelines, provided in paragraph 18 before commencement of the regime.

the scale and complexity of the business;

- (f) Segregation and management of client assets – the licensed VASP should implement proper segregation of client assets by placing them in an associated entity (i.e., a separate corporate entity with which the licensed VASP has a controlling relationship). Adequate policies and governance procedures should also be implemented to ensure the proper management and custody of client assets including VAs;
- (g) VA listing and trading policies – the licensed VASP should implement and enforce robust rules for the listing and trading of VAs on its platform(s). The VA exchange should also perform all reasonable due diligence on VAs before listing them for trading;
- (h) Financial reporting and disclosure – the licensed VASP and its associated entities should observe prescribed auditing and disclosure requirements and publish audited accounts;
- (i) Prevention of market manipulative and abusive activities – the licensed VASP should establish and implement written policies and controls for the proper surveillance of activities on its platform(s) in order to identify, prevent and report any market manipulative or abusive trading activities; and
- (j) Prevention of conflicts of interest – to avoid any conflicts of interest, the licensed VASP and its associated entities should not engage in proprietary trading or market-making activities on a proprietary basis. Suitable firewalls should also be instituted between the different functions of the corporate structure to avoid conflict of interests. The licensed VASP and its associated entities should also have a policy to eliminate, avoid, manage, or disclose actual or potential conflicts of interests for their employees who deal with VAs.

19. The SFC will grant a licence only when the relevant requirements are met. Licensed VASPs will be subject to disciplinary and investigative proceedings and enforcement actions in case of non-compliance with the AML/CTF and other regulatory requirements promulgated by the SFC.

Open-ended Licence

20. It is expected that a licensed VASP would need to make substantive investment in order to acquire the necessary scale and sophistication for operating a competitive VA exchange. A degree of certainty in the operating environment is necessary to encourage long term investment in the business. As such, we propose that a licensed VASP will be granted an open-ended licence, i.e., it will remain valid until the licensed VASP is revoked by the SFC, for example, due to misconduct or the licensed VASP ceases its operation.

Exemption and Prohibition

21. A VA exchange is a new line of business that is distinct from the more traditional services provided by financial institutions or DNFBPs regulated under the AMLO. As their businesses do not overlap, we do not propose any exemption in respect of the VASP licensing requirement, except for VA exchange(s) that are already regulated as a licensed corporation in the opt-in regime. The latter has been subject to essentially the same set of AML/CTF and licensing requirements now proposed for VASPs.
22. Upon commencement of operation of the licensing regime, any existing operators carrying on the regulated activity of operating a VA exchange will be required to file an application with the SFC within 180 days. Any person carrying on such activities without a valid licence commits a criminal offence.
23. To prevent local investors from being exposed to risks from unlicensed VA exchanges, we propose to prohibit any person from

actively marketing⁵, whether in Hong Kong or elsewhere, to the public of Hong Kong a regulated VA activity or a similar activity elsewhere (i.e. services associated with a VA exchange), unless the person is properly licensed and regulated by the SFC for the purpose of conducting the regulated VA activity.

Powers of the Licensing Authority

Supervisory Powers

24. The SFC will be empowered to supervise the AML/CTF conduct of licensed VASPs and enforce other regulatory requirements in accordance with the AMLO stipulations. Such will include the power to enter business premises of the licensed VASP and its associated entities for conducting routine inspections; to request the production of documents and other records; to investigate non-compliances and to impose administrative sanctions (including reprimand, order for remedial actions, civil penalty and suspension or revocation of licence) against non-compliances.
25. The SFC will be empowered to appoint an auditor to look into the affairs of a licensed VASP and its associated entities if it has reasons to believe that the licensed VASP has failed to comply with any regulatory requirements. The SFC may also apply to the Court, where the circumstances so require, for an injunction order to prevent a licensed VASP from further contravening the said requirements.

Intervention Powers

26. Considering that the default of a VA exchange would bring considerable loss for investors, we see a need to enable the SFC to protect client assets of a licensed VASP in the event of an emergency, and to prevent the dissipation of client assets in case of misconduct on the part of a licensed VASP. Drawing reference

⁵ Reference is made to a similar concept under section 115 of the Securities and Futures Ordinance.

from similar empowering provisions under the SFO, we propose to provide the SFC with intervention powers to impose restrictions and prohibitions against the operations of a licensed VASP and its associated entities where the circumstances so warranted.

27. Specifically, we propose to empower the SFC to –
- (a) Prohibit the licensed VASP and its associated entities from entering into any further transactions, and/or require it to conduct its business only in a specified manner;
 - (b) Restrict the licensed VASP and its associated entities from disposing of (or otherwise dealing with) its property (including client assets and other property); and
 - (c) Require the licensed VASP and its associated entities to maintain its property in a specified manner with a view to ensuring that it will be able to meet its liabilities.

Sanctions

28. The VA business operates largely in the virtual world with a high inherent risk both in terms of ML/TF and other criminal activities such as fraud. The penalty level for unlicensed VA activities should be high enough to achieve the necessary deterrent effect. We propose that any person conducting a regulated VA activity without a licence shall be guilty of a criminal offence. In this connection, we propose that carrying out a regulated VA activity⁶ without a VASP licence should be punishable, on conviction on indictment, to a fine of \$5,000,000 and to imprisonment for seven years; and, in the case of a continuing offence, to a further fine of \$100,000 for every day during which the offence continues.
29. We also propose to make it an offence for any person, in connection

⁶ Including actively marketing, whether in Hong Kong or from a place outside Hong Kong, to the Hong Kong public, a regulated VA activity, or any service which would constitute a regulated VA activity if it is conducted in Hong Kong.

with an application for the grant of a licence, to make a false, deceptive or misleading statement in a material particular, which shall also be punishable on conviction on indictment to a fine of \$1,000,000 and to imprisonment for two years.

30. In case of non-compliance with the statutory AML/CTF requirements, the licensed VASP and its responsible officers will be subject to criminal proceedings and liable to a fine of \$1,000,000 and to imprisonment for two years on conviction on indictment. They may also be subject to a range of administrative sanctions, including suspension or revocation of licences, reprimand, remedial order and a pecuniary penalty (not exceeding \$10,000,000, or three times the amount of the profit gained or costs avoided, whichever is the greater) for misconduct such as contravening the AML/CTF or other regulatory requirements. The sanctions proposed are similar to those applicable to financial institutions regulated under the AMLO.
31. Given the risk of investor fraud associated with VA, we propose to make it an offence for any person to make a fraudulent or reckless misrepresentation for the purpose of inducing another person to acquire or dispose of a VA, whether or not the transaction is conducted (or proposed to be conducted) within or outside a licensed VA exchange. A person who commits this offence is liable to a fine of \$1,000,000 and to imprisonment for two years.

Statutory Appeal

32. We propose amending Part 6 of the AMLO to expand the scope of reviewable decisions of the Anti-Money Laundering and Counter-Terrorist Financing Review Tribunal to cover appeals against future decisions made by the SFC in implementing the licensing and supervisory regime for licensed VASPs.

**Details of the Proposed Dealers in Metals and Stones
Registration Regime**

1. Dealers in precious metals and stones (“DPMS”) are among the six categories of designated non-financial businesses and professions (“DNFBPs”) ¹ appointed by the Financial Action Task Force (“FATF”) for anti-money laundering and counter-terrorism financing (“AML/CTF”) regulation primarily due to their involvement in cash-based transactions, which may be abused by criminals to launder and disguise proceeds in valuable commodities (e.g. gold, diamonds or high-value jewellery), or by terrorist and their associates to finance terrorism abroad. Specifically, the FATF requires that DPMS which engage in cash transaction exceeding USD/EUR15,000 (approximately HK\$120,000) should be subject to the same AML/CTF obligations as other DNFBPs. Major economies have accordingly introduced AML/CTF regulation for their DPMS trade through a licensing or registration system.
2. Whilst domestically cash-based transactions in the DPMS sector have become less common nowadays, Hong Kong has a sizeable DPMS sector² which is not immune from money laundering and terrorist financing (“ML/TF”) challenges. One consideration for not including the DPMS sector in the 2018 Anti-Money Laundering and Counter-Terrorist Financing Ordinance (Cap. 615) (“AMLO”) amendment exercise was that it was less ready than the other

¹ Under FATF’s definition, “DNFBPs” cover casinos, accounting professionals, DPMS, estate agents, legal professionals, and trust or company service providers. Hong Kong has no casinos, and apart from DPMS, the rest of the sectors were regulated under AMLO.

² The DPMS industry plays a significant role in Hong Kong’s import and export trade. Hong Kong is one of the world’s major trading centres in gold. In 2020, Hong Kong exported \$352 billion worth of gold and \$44 billion worth of silver, platinum and other metals of the platinum group. Hong Kong also has an active trade in exporting diamonds, pearls, and other precious stones, which amounted to HK\$97 billion in 2020, as well as precious jewellery, the export of which amounted to HK\$55 billion in 2020. On top of that, Hong Kong has a large retail sector for jewellery and precious metal accessories, with 1 980 retail establishments employing over 10 000 people. Two of the top ten jewellers in the world are based in Hong Kong.

DNFBP sectors for AML/CTF regulation. Since then, the Government has stepped up efforts to raise the AML/CTF awareness of the DPMS sector and enhance their understanding of ML/TF risks through capacity-building seminars. We also issued a revised AML/CTF Guideline for the DPMS sector in 2018 to assist its development of best practices and procedures to guard against potential abuse for ML/TF. This notwithstanding, the FATF identifies the absence of DPMS regulation as a gap in the AML/CTF regime of Hong Kong, and recommends in the Mutual Evaluation Report that appropriate AML/CTF obligations be put in place for the DPMS sector as a matter of priority.

3. To implement the FATF requirement, we propose amending the AMLO to introduce a two-tier registration regime for DPMS and subject registrants engaging in cash transactions at or above HK\$120,000 (“specified cash transactions”) to the AML/CTF obligations stipulated in Schedule 2 to the AMLO. The registration regime will be administered by the Commissioner of Customs and Excise (“C of C&E”), who as the Registrar will maintain a Register of Dealers of Precious Metals and Stones for public information.

Scope and Coverage

4. To allow the Registrar an oversight of the DPMS trade such that he can fully grasp the ML/TF risks involved and apply risk-based mitigation measures accordingly as required by the FATF, we propose that registration as a DPMS under the AMLO is required before any person (natural or legal) may, by way of business, conduct one or more of the following “regulated activities”³ in

³ The coverage of “regulated activities” draws reference from the FATF’s intention to encompass a wide range of persons engaged in the following DPMS business –

- (a) those who produce precious metals or precious stones at mining operations;
- (b) intermediate buyers and brokers;
- (c) precious stone cutters and polishers and precious metal refiners;
- (d) jewellery manufacturers who use precious metals and precious stones; and
- (e) retail sellers to the public, and buyers and sellers in the secondary and scrap markets.

Hong Kong –

- (a) Trading in (i.e. selling, offering for sale, purchasing or possessing for sale/resale), importing, or exporting precious metals, precious stones or precious products;
 - (b) Manufacturing, refining, or carrying out any value-adding work (e.g. cutting, polishing, etc.) on precious metals, precious stones or precious products;
 - (c) Issuing, redeeming, or trading in (as defined) precious-asset-backed instruments; or
 - (d) Acting as an intermediary for (a), (b) or (c) above.
5. We propose to define precious metals, precious stones, precious products and precious-asset-backed instruments⁴ as follows –
- (a) “Precious metal” means gold, silver, platinum or any other metal in the platinum group ⁵ (i.e. iridium, osmium, palladium, rhodium or ruthenium) in a manufactured or unmanufactured state;
 - (b) “Precious stone” means diamond, sapphire, ruby, emerald, jade, or pearl;
 - (c) “Precious product” means any jewellery, watch, apparel, accessory, ornament or other finished product made up of, containing or having attached to it, any precious metals or precious stones or both, and at least 50% of its settlement price is attributable to the precious metals or precious stones or both; and

⁴ As precious metals and precious stones may exhibit themselves in various forms ranging from tangible jewellery to intangible paper gold, we consider that precious products embodying precious metals or precious stones and instruments backed by such assets should also be regulated to prevent regulatory arbitrage.

⁵ The platinum group metals are six transitional metal elements that are chemically, physically and anatomically similar, including platinum, iridium, osmium, palladium, rhodium, and ruthenium.

- (d) “Precious-asset-backed instrument” means any certificate or instrument backed by one or more precious metals, precious stones or precious products that entitles the holder to such assets (in entirety or in part), but excluding securities, futures contracts, collective investment schemes or authorized structured products regulated under the Securities and Futures Ordinance (Cap. 571).

Two-Tier Registration

- 6. Given the FATF requirement for DPMS engaging in large cash transactions to be subject to more rigorous AML/CTF scrutiny, there is a need to distinguish persons who engage in large cash transactions from those who do not for application of risk-based regulation. We propose that two categories of registration be introduced under the regulatory regime to reflect the FATF intention for DPMS who engage in cash transactions at or above HK\$120,000 to be subject to the same set of AML/CTF obligations now applicable to other DNFBPs, while allowing the rest a lighter touch of supervision.
- 7. It is proposed that registration under either of the categories below is required for any person seeking to carry on the business of regulated activities for a customer in Hong Kong –
 - (a) **Category A:** For a person who does not intend to and will not engage in any specified cash transactions (i.e. by not accepting cash payment for transactions over the specified amount) in the course of carrying on a DPMS business, general registration under Category A will suffice for the person to conduct one or more of the regulated activities specified in paragraph 4 above. A specified cash transaction refers to the making or receiving, in respect of any transaction involving a regulated activity, a payment or payments in cash of at least HK\$120,000 in total, whether the transaction is executed in a single operation or in multiple operations which appear to be linked; and

- (b) **Category B:** For a person who intends to or may engage in any specified cash transaction in the course of a DPMS business, registration under Category B is required for the person to conduct one or more of the regulated activities specified in paragraph 4 above.
8. Migration between the two categories of registration is permissible upon application, provided that the applicable registration criteria are met.

Requirements for Category A Registration

9. Category A registration is simple and straightforward. Any person who intends to carry on a DPMS business may approach the Registrar for registration. Registration is almost automatic, subject only to the filing of an application which is accompanied by a valid business registration certificate⁶, addresses of all premises in Hong Kong pertaining to the place of business, and a declaration that the registration is obtained for a lawful purpose (the purpose being to engage in one or more of the regulated activities). Category A registrants are not subject to the AML/CTF obligations stipulated in Schedule 2 to the AMLO or any registration requirements other than to notify the Registrar of any subsequent changes in particulars.
10. A Category A registration will remain valid for as long as the DPMS continues to stay in business, subject only to the payment of an annual fee. The Registrar may refuse or cancel a Category A registration if the registrant is found to have ceased business operations, gone into liquidation or bankruptcy, have been struck off the Companies Register (in the case of a company), have engaged in specified cash transactions without a Category B registration, or have made a fraudulent, misleading or deceptive declaration in the application, or if the Registrar reasonably suspects, at any time throughout the registration period, that the

⁶ For hawkers licensed under the Hawker Regulation (Cap. 132AI) who are exempted from business registration, they may register under Category A on the strength of their hawker licence without a business address.

registration obtained is no longer for a lawful purpose. The objective of establishing Category A is to enable the Registrar to maintain an up-to-date understanding of the overall landscape of the sector, without placing any undue regulatory burden on the DPMS concerned.

Requirements for Category B Registration

11. Application for Category B registration, like other DNFBPs regulated under the AMLO, is subject to the meeting of a fit-and-proper test by the applicant, in addition to the requirement for a valid business registration certificate and addresses of all premises in Hong Kong pertaining to the place of business. In determining whether an applicant is fit and proper, the Registrar will consider all relevant matters, including whether the applicant (or any directors or ultimate owners) has been convicted in Hong Kong or elsewhere of an ML/TF offence or a serious offence⁷; has been convicted in Hong Kong or elsewhere of an offence in which the person is found to have acted fraudulently, corruptly or dishonestly; has been the subject of any bankruptcy or liquidation proceedings; or has failed or may fail to observe the AML/CTF and other applicable requirements.
12. Category B registrants will be subject to the AML/CTF obligations under the AMLO when they engage in specified cash transactions and supervised by the Registrar in this regard. A Category B registration will be valid for three years and renewable upon expiry where fit-and-proper requirements are met. For avoidance of doubt, an applicant failing to obtain registration status under Category B may still apply for registration under Category A provided that the applicant will not engage in specified cash transactions.

⁷ Offences specified in Schedules 1 or 2 of the Organized and Serious Crimes Ordinance (Cap. 455) or similar offences elsewhere.

Exemption

13. It is noted that some financial institutions have a substantial footprint in the DPMS trade (e.g. buying and selling gold or issuing paper-gold). To avoid regulatory overlap, we propose to exempt financial institutions that are already regulated under the AMLO (viz. banks, licensed corporations, insurance institutions, money service operators, and stored value facilities) and pawnbroker licensed under the Pawnbrokers Ordinance (Cap. 166) from the registration requirement, where they conduct the regulated activities of DPMS as an ancillary to their principal business.
14. The exemption does not apply to other DNFBPs supervised under the AMLO, as presently they are obliged to observe the AML/CTF requirements in Schedule 2 to AMLO only when they engage in “specified transactions”, which do not include the regulated activities of DPMS. Exempting DNFBPs would create a loophole whereby they become unsupervised if they do engage in DPMS business. In any event, DNFBPs are mostly professional service providers who seldom operate another business outside their profession.
15. Having regard to the fact that dealers from other jurisdictions visit Hong Kong occasionally for jewellery trade fairs organised throughout the year, we propose to exempt these non-domestic dealers from registration as they pose lower ML/TF risks due to their transitory nature. From an operational point of view, it would also be impractical for the Registrar to supervise the AML/CTF compliance of these dealers as they do not have a permanent establishment in Hong Kong and may have been regulated already in other jurisdictions. We propose to exempt a non-domestic dealer from the registration regime if all the following conditions are met –
 - (a) The person is a natural person who does not ordinarily reside in Hong Kong;
 - (b) The person does not have a permanent place of business in Hong Kong; and

- (c) The person carries out a regulated activity in Hong Kong for no more than a total of 60 calendar days in any given year.
16. To mitigate the ML/TF risks of non-domestic dealers, they will be required to file a cash transaction report with the Registrar when they engage in a specified cash transaction in Hong Kong, and within one day upon completion of the transaction (and in any event before their departure from Hong Kong). A non-domestic dealer who fails to observe this requirement commits an offence and is liable to a fine at level 5 (\$50,000) and imprisonment for three months⁸. Such cash transaction reports will enable the Registrar to detect suspicious transactions and conduct follow-up investigations as necessary.

Transitional Arrangement

17. To facilitate the trade's migration to the registration regime, a transitional arrangement will be provided for in the amendment bill. Specifically, DPMS who have been in operation immediately before commencement of the regime will be allowed 270 days to apply for registration⁹. During the transitional period, DPMS carrying on a business of regulated activities will be deemed to have been registered for the purpose until such time when an application is granted.

Powers of the Registrar

18. The Registrar for DPMS will be empowered to supervise the AML/CTF conduct of Category B registrants and enforce any

⁸ The suggested penalty level makes reference to that for failing to report a suspicious transaction under the Organized and Serious Crimes Ordinance (Cap. 455).

⁹ In the public consultation exercise on the relevant legislative amendments from November 2020 to January 2021, we had proposed that DPMS be allowed 180 days to apply for registration. Taking into account the large number of establishments and operations which may apply for registration and to facilitate smooth migration to the registration regime, we propose that the period be extended to 270 days.

registration conditions in accordance with the AMLO stipulations. Such will include the power to enter the DPMS' place of business for routine inspection; to investigate non-compliance and to request the production of records, documents or other materials; and to impose administrative sanctions to ensure the AML/CTF compliance of Category B registrants.

19. In respect of Category A registrants, the Registrar will also be empowered to enter the DPMS' place of business for routine inspection and request production of records or documents to ensure that they do not unlawfully engage in specified cash transactions. As Category A registrants are not subject to the AML/CTF obligations set out in Schedule 2 to the AMLO, the Registrar's powers to investigate non-compliances with Schedule 2 requirements and impose sanctions accordingly will not apply to them.

Sanctions

20. A person commits an offence in any of the following circumstances, and is liable on conviction to a fine at level 6 (\$100,000) and to imprisonment of six months –
 - (a) Conducting by way of business one or more of the regulated activities without a Category A or Category B registration;
 - (b) Engaging in a specified cash transaction whilst carrying out any regulated activity without a Category B registration; or
 - (c) Purporting to be a registered DPMS when the person does not have a valid Category A or Category B registration.
21. A person commits an offence if the person, in connection with a registration, makes a false, deceptive or misleading statement in a material particular, which should be liable to a fine at level 5 (\$50,000) and to imprisonment for six months.

22. A Category B registrant who contravenes the AML/CTF requirements in the AMLO (e.g. customer due diligence and record keeping) will be subject to disciplinary proceedings and a range of administrative sanctions, including reprimand, remedial order and a pecuniary penalty not exceeding \$500,000¹⁰. We do not propose to impose criminal sanctions for non-compliance. The proposal of not imposing criminal sanctions is on par with the approach of other DNFBPs which have already been regulated under AMLO.

Statutory Appeal

23. We propose that the Anti-Money Laundering and Counter-Terrorist Financing Review Tribunal, established under the AMLO, be empowered to hear appeals against future decisions made by the Registrar in implementing the registration and supervisory regime for DPMS.

¹⁰ This level is consistent with the maximum administrative fine that may be imposed against other DNFBPs for non-compliance with the AMLO.