

香港特別行政區政府  
財經事務及庫務局  
財經事務科  
香港添馬添美道二號  
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LC Paper No. CB(1)259/2025(01)  
FINANCIAL SERVICES BRANCH  
FINANCIAL SERVICES AND  
THE TREASURY BUREAU  
GOVERNMENT OF THE HONG KONG  
SPECIAL ADMINISTRATIVE REGION

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來函檔號 YOUR REF.: LS/B/31/2024

19 February 2025

Mr Mark LAM  
Assistant Legal Adviser  
Legal Service Division  
Legislative Council Secretariat  
Legislative Council Complex  
1 Legislative Council Road  
Central, Hong Kong

Dear Mr LAM,

### **Stablecoins Bill**

Further to our response of 10 February 2025 to your letter dated 20 January 2025 (“your letter”), please find below our response to your comments in paragraphs 9 and 10 of your letter.

#### Proposed offences under the Bill (Paragraphs 9 to 10 of your letter)

2. Regarding the offences under the Bill which do not provide for *mentes reae*, our legislative intent is that these offences are strict liability offences (“Strict Liability Offences”) but not absolute liability offences.

3. The common law defence of “honest and reasonable mistaken belief” would be available for the Strict Liability Offences, except those for which the Bill provides a statutory defence (i.e. offences subject to the defences in clauses

10(6), 37(3), 110(5), 114(6) and 115(4) of the Bill, and offences subject to a defence of “reasonable excuse”). Regarding the offences for which the Bill provides a statutory defence, since the common law defence of “honest and reasonable mistaken belief” is inconsistent with the statutory defences, our legislative intent is that the fourth alternative referred to in *Kulemesin* applies and the defendant is confined to relying on the statutory defences provided for in the Bill.

4. Where a statutory defence is provided for in the Bill, clause 165 of the Bill provides that an evidential burden of proof applies. Likewise, where the common law defence is available, our legislative intent is that the second alternative in *Kulemesin* applies and the defendant bears an evidential burden of proof.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Timothy Wong', with a stylized, flowing script.

(Timothy WONG)  
for Secretary for Financial Services  
and the Treasury