

# 立法會

## *Legislative Council*

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### **Report of the Bills Committee on Stablecoins Bill**

#### **Purpose**

This paper reports on the deliberations of the Bills Committee on Stablecoins Bill (“the Bills Committee”).

#### **Background**

2. With the popularity of blockchain and distributed ledger technologies, virtual assets (“VAs”) have been developing rapidly in recent years. The Government issued the Policy Statement on Development of VAs in Hong Kong in October 2022, setting out the enhancements to the VA regulatory framework under the principle of “same activity, same risks, same regulation”. In this regard, the Government has amended the Anti-Money Laundering and Counter Terrorist Financing Ordinance (Cap. 615) (“AMLO”) to introduce a licensing regime for VA service providers, ensuring that VA trading platforms (“VATPs”) comply with relevant international requirements on anti-money laundering and counter-terrorist financing while protecting investors. The licensing regime for VATPs has commenced operation since June 2023.

3. The Administration has advised that there is a rising interconnectedness between the traditional financial system and VAs. Specifically, the roles of stablecoins—especially those that maintain a stable value relative to fiat currencies—in the Web3 and VA ecosystem are becoming increasingly apparent, with the potential for fiat-referenced stablecoins (“FRS”) to develop into a widely accepted means of payment and hence the possibility of posing more imminent risks to monetary and financial stability. The Government therefore considers it necessary to put in place a robust and fit-for-purpose regulatory regime for FRS issuers in order to mitigate the relevant risks and provide protection for FRS users. This will also help create a more facilitating environment for the sustainable and responsible development of the stablecoin ecosystem and related sectors.

The Stablecoins Bill (“the Bill”) is introduced into the Legislative Council (“LegCo”) to establish a licensing regime for FRS issuers in Hong Kong.

## **Stablecoins Bill**

4. The Bill was published in the Gazette on 6 December 2024 and received its First Reading at the LegCo meeting of 18 December 2024. The Bill seeks to:

- (a) provide for the supervision of activities involving stablecoins;
- (b) provide the Monetary Authority (“MA”) with investigatory and enforcement powers; and
- (c) provide for incidental and related matters.

5. The key features of the proposed regulatory framework on stablecoins are set out in paragraphs 6 to 13 below.

### Proposed licensing requirement on carrying on stablecoin activity

6. Under the Bill, a person, unless exempted under clause 13(1)(a) of the Bill, would be required to have a licence granted by MA under clause 15 of the Bill in order to carry on, or to hold out as carrying on, a “regulated stablecoin activity” (clause 8 of the Bill).

7. For the purposes of the Bill:

- (a) a person would be regarded as carrying on a “regulated stablecoin activity” if the person (i) issues a “specified stablecoin” in Hong Kong in the course of business; (ii) issues a specified stablecoin in a place outside Hong Kong in the course of business, and the specified stablecoin purports to maintain a stable value with reference (whether wholly or partly) to Hong Kong dollars; or (iii) carries on an activity specified by MA under clause 5(4) of the Bill, after consulting the Financial Secretary (“FS”), by notice published in the Gazette (clause 5 of the Bill);
- (b) a “specified stablecoin” is proposed to mean (i) a stablecoin that purports to maintain a stable value with reference wholly to (aa) one or more official currencies (e.g. the currency issued by the central bank of a jurisdiction), (bb) one or more units of account or stores of economic value specified by MA by notice published in the Gazette under clause 4(2)(a) of the Bill, or (cc) a combination of the items referred to in (aa) and (bb); or

(ii) a digital representation of value, or a digital representation of value of a class, specified by MA by notice published in the Gazette under clause 4(2)(b) of the Bill (clause 4 of the Bill); and

- (c) a “stablecoin” is proposed to mean a cryptographically secured digital representation of value that, subject to fulfilling other conditions, is expressed as a unit of account or store of economic value, is used (or intended to be used) as a medium of exchange accepted by the public for specified purposes including payment for goods or services; can be transferred, stored or traded electronically; is operated on a distributed ledger or similar information repository; and purports to maintain a stable value with reference to a single asset (or a pool or basket of assets), but would not include certain digital representations of value (e.g. those issued by central banks) (clause 3 of the Bill).

#### Licensing criteria and conditions, and other licensing matters

8. Part 2 of the Bill contains the detailed criteria, conditions and other matters relating to the proposed licensing regime. For instance, a company as defined by section 2(1) of the Companies Ordinance (Cap. 622) (“CO”) (e.g. a company incorporated and registered under CO), or an authorized institution (e.g. a bank) incorporated outside Hong Kong would be eligible to apply for a licence to carry on a regulated stablecoin activity (clause 14 of the Bill). A licence, if granted, would remain in force until it is revoked under specified events as stated in clause 28 or 29 of the Bill (e.g. if MA is satisfied that a ground for revoking a licence specified in the proposed Schedule 4 to the Bill exists).

9. Various duties are proposed to be imposed on a licensee under the Bill. For instance, a licensee must ensure the fulfillment of the relevant minimum criteria (as specified in Part 2 of the proposed Schedule 2 to the Bill, such as redemption, reserve assets management and audit requirements) (clause 24 of the Bill). Separately, a licensee must obtain the prior consent of MA to appoint its controller, chief executive, director and stablecoin manager (clauses 37, 53, 58 and 66 of the Bill).

#### Offering of a specified stablecoin

10. The Bill proposes that a person must not offer, or hold out as offering, a specified stablecoin, unless the person (if not exempted by MA) is a licensee or another permitted offeror (such as a licensed corporation that is licensed for a Type 1 regulated activity (i.e. dealing in securities) under

the Securities and Futures Ordinance (Cap. 571) (“SFO”) and an authorized institution), subject to fulfilling the relevant condition(s). Such relevant conditions would include that the issue of the specified stablecoin is authorized by a licence, or the person to whom the specified stablecoin is offered is a person, or a person of a class, specified by FS by notice published in the Gazette under clause 9(3) of the Bill (clause 9 of the Bill).

#### Designation of stablecoin entities

11. MA would be empowered to designate by notice published in the Gazette an entity which carries on a business outside Hong Kong of issuing specified stablecoins or provides (whether in Hong Kong or elsewhere) any services to a stablecoin payment system, subject to the relevant requirements imposed under the Bill (Part 3 of the Bill).

#### Criminal offences and civil sanctions

12. A person who, without reasonable excuse, contravenes any requirement in relation to (a) carrying on a regulated stablecoin activity, or (b) offering a specified stablecoin commits an offence. Such offence would be punishable with, (a) on summary conviction, a fine of HK\$500,000 and imprisonment for two years and, in the case of a continuing offence, a further fine of HK\$10,000 for every day during which the offence continues, or (b) on conviction on indictment, a fine of HK\$5,000,000 and imprisonment for seven years and, in the case of a continuing offence, a further fine of HK\$100,000 for every day during which the offence continues (clauses 8(3) and 9(4) of the Bill).

#### Investigatory and enforcement powers of the Monetary Authority

13. The Bill seeks to confer investigatory and enforcement powers on MA. For instance, MA could institute an investigation (e.g. by appointing an investigator) against a person in specified circumstances (e.g. where an offence under the Bill may have been committed by a person). As to enforcement powers, MA could (after consulting FS) require the licensee to take certain actions (e.g. directing that the affairs, business or property of the licensee are to be managed by a statutory manager appointed by MA who would have certain powers including those set out in the proposed Schedule 5 to the Bill) in specified circumstances (e.g. the licensee is likely to become unable to meet its obligations) (clauses 77, 80 and 86 of the Bill).

14. Details about the main provisions of the Bill are set out in paragraph 22 of the LegCo Brief (File Ref: [B&M/4/1/44C](#)) issued on 11 December 2024 and paragraphs 4 to 15 of the Legal Service Division Report on the Bill ([LC Paper No. LS80/2024](#)). The Bill, if passed, will

come into operation on a day to be appointed by the Secretary for Financial Services and the Treasury by notice published in the Gazette.

## **Bills Committee**

15. At its meeting on 3 January 2025, the House Committee agreed to form a Bills Committee to scrutinize the Bill. Hon Duncan CHIU and Hon Adrian Pedro HO King-hong were elected Chairman and Deputy Chairman of the Bills Committee respectively. The membership list of the Bills Committee is in [Appendix](#).

16. The Bills Committee has held six meetings with the Administration. The Bills Committee has invited written submissions from the public on the Bill and received one written submission ([LC Paper No. CB\(1\)161/2025\(01\)](#)). The Administration has provided a written reply to the issues raised in the submission ([LC Paper No. CB\(1\)195/2025\(01\)](#)).

## **Deliberations of the Bills Committee**

17. Members of the Bills Committee in general support the proposals in the Bill to regulate activities involving specified stablecoins with a view to addressing the potential financial stability risks and providing adequate protection for users. The deliberations of the Bills Committee are summarized in the ensuing paragraphs.

### Scope of stablecoins covered

18. Some members have enquired whether the specified stablecoins as defined in the Bill can include stablecoins with reference to precious metals such as gold or other commodities; if not, the reasons for that. Separately, under clause 3(1) of the Bill, “stablecoin” is proposed to mean a cryptographically secured digital representation of value that, among others, is operated on a distributed ledger or similar information repository. Under clause 3(3) of the Bill, “distributed ledger” is proposed to mean an information repository that uses a technology through which records of transactions are (a) held in a ledger; (b) shared across a network; (c) verified among network participants using a consensus mechanism; and (d) synchronized between network nodes. The Legal Adviser to the Bills Committee has requested the Administration to clarify the meanings of “consensus mechanism” and “network node” and consider whether their definitions should be provided for in the Bill for the sake of clarity and certainty.

19. The Administration has explained that the proposed licensing regime should focus on FRS by defining “specified stablecoin” which will

be subject to the regulatory control of MA as a stablecoin that purports to maintain a stable value with reference to one or more official currencies. This is because FRS, with their purported reference to one or more fiat currencies, has a higher potential among stablecoins to be developed into a widely accepted means of payment, and thus have a higher potential for being incorporated into the mainstream financial system. While the focus of the regulatory regime is on FRS, the Administration recognizes that stablecoins which reference other assets (e.g. commodity) may also have the potential to become prevalent in the future, and may pose similar risks as FRS. In order to allow a timely response to market developments, the Bill proposes to provide MA with the power to specify a digital representation of value to be a specified stablecoin by notice published in the Gazette.

20. As regards the terms “consensus mechanism” and “network node” in clause 3(3) of the Bill, the Administration has advised that taking into consideration the constantly evolving nature of cryptography as well as the technologies that encompass cryptographic techniques (e.g. distributed ledger technology) and the fact that these two terms are terms generally understood in their context, the Administration is of the view that it is more appropriate for these terms to be interpreted in light of the latest technological developments and market consensus than to explicitly define these terms in the Bill. MA will provide further guidance to the industry as appropriate.

#### Determination of whether a specified stablecoin is issued in Hong Kong

21. Clause 5(1)(a)(i) and (ii) of the Bill provides that a person would be regarded as carrying on a “regulated stablecoin activity” if the person issues a specified stablecoin in Hong Kong in the course of business, or the person issues a specified stablecoin in a place outside Hong Kong in the course of business and the specified stablecoin purports to maintain a stable value with reference (whether wholly or partly) to Hong Kong dollars. Members of and the Legal Adviser to the Bills Committee have sought clarification on the factors to be taken into account in determining whether a specified stablecoin is issued in Hong Kong, or in a place outside Hong Kong, in the course of business.

22. The Administration has advised that in determining whether a specified stablecoin is issued in Hong Kong in the course of business, MA will take a holistic approach and consider all relevant factors including but not limited to the following: (a) where the day-to-day management and operations of the issuer take place; (b) where the issuer is incorporated; (c) where the minting and burning of the specified stablecoin take place; (d) where the reserve assets are managed; and (e) where the bank account for processing the cash flows arising from minting/redemption requests

is maintained. Such determination will be made based on the facts and circumstances of each case. The Administration added that MA will issue and publish in the Gazette guidelines under clause 170 of the Bill to provide guidance on the factors MA will take into consideration in determining whether a specified stablecoin is issued in Hong Kong.

#### Meaning of “active marketing”

23. Under clauses 5(2) and 6(3) of the Bill, a person would be regarded as holding out as carrying on a regulated stablecoin activity or offering a specified stablecoin if the person actively markets, whether in Hong Kong or elsewhere, to the public (i.e. the public of Hong Kong, including a class of that public (see clause 2 of the Bill)) that the person carries on, or purports to carry on, a regulated stablecoin activity or the offering of a specified stablecoin. Members of and the Legal Adviser to the Bills Committee have sought clarification on the factors for determining whether a person would be regarded as “actively marketing” to the public that the person carries on, or purports to carry on, a regulated stablecoin activity or the offering of a specified stablecoin.

24. The Administration has advised that in determining whether a person is regarded as actively marketing to the public that the person carries on, or purports to carry on a regulated stablecoin activity or the offering of a specified stablecoin, MA will take a holistic approach and consider all relevant factors including but not limited to the following : (a) the language used in the marketing messages; (b) whether the message is targeted at a group of people that resides in Hong Kong; (c) whether a Hong Kong domain name is used for the marketing website; and (d) whether there is a detailed marketing plan to promote the activity. Such determination will be made based on the facts and circumstances of each case. The Administration has added that MA will issue and publish in the Gazette guidelines under clause 170 of the Bill to provide guidance on the factors to be taken into consideration in determining whether a person is actively marketing to the public.

#### Disclosure of information on specified stablecoins

25. The Bills Committee notes that the proposed Schedule 2 to the Bill sets out the minimum criteria to be met by a licensee. Section 13(1) thereof provides that a licensee must in respect of each type of specified stablecoins issued by the licensee publish a white paper to provide comprehensive and transparent information about the type of specified stablecoins. In this regard, members of and the Legal Adviser to the Bills Committee have enquired about the reasons for not expressly providing for the contents of the white paper in the Bill, including the mechanism and procedures for

issuance, distribution and redemption of specified stablecoins, for the purpose of clarity and certainty.

26. The Administration has advised that as regards the disclosures to be made in the white paper, as the contents of the white paper may vary from time to time due to the evolving industry development and business models of a licensee, MA would issue and publish in the Gazette guidelines under clause 170 of the Bill to provide guidance on the information that should be included in the white paper, which may include information regarding the mechanism and procedures for the issuance of specified stablecoins, the distribution and redemption of specified stablecoins, the rights of potential holders of specified stablecoins, and the underlying technology employed, etc.

Specified stablecoin offerors and target persons to whom specified stablecoins are offered

27. The Bills Committee notes that to ensure protection to potential holders, the Bill proposes that only four types of permitted offerors can offer a specified stablecoin to the public, namely, (a) a licensee under the proposed FRS issuer regime; (b) a VATP licensed by the Securities and Futures Commission (“SFC”) under section 53ZRK of AMLO; (c) a corporation that is licensed by SFC for carrying on Type 1 regulated activity under section 116 of SFO; and (d) an authorized institution as defined in the Banking Ordinance (Cap. 155) (“BO”). Some members note the industry’s view that the scope of permitted offerors should be extended to include stored value facility (“SVF”) licensees. The Administration has initially advised that SVF licensees typically focus on rather specific business models, and as such further assessments would be required in relation to the additional risks associated with SVF licensees offering FRS. It will continue to engage market participants, carefully assess the evolving landscape and formulate the relevant policy as and when appropriate. Some members are of the view that allowing SVF licensees to offer FRS may help promote the wider use of FRS, and have enquired about the outcome of the Administration’s study on the matter.

28. The Administration has replied that having considered the use cases and development trend of stablecoins, as well as members’ views, it has decided to allow SVF licensees under the Payment Systems and Stored Value Facilities Ordinance (Cap. 584) (“PSSVFO”) to be included as a type of permitted offerors. To this end, the Administration will propose an amendment to include in the proposed section 9(5) (under the proposed definition of “permitted offeror”) a person who is granted a licence under the Bill and section 8F of PSSVFO. The Administration has also advised that it will revise the explanatory notes, regulatory guidelines and licensing

conditions in relation to SVF licensees which are provided for under PSSVFO to require these licensees to obtain prior and express approval from MA before they can commence business of offering FRS.

29. The Bills Committee notes that according to paragraph 10 of the Annex to the Administration's paper on development of financial technologies in Hong Kong and the proposed regulatory regime for stablecoin issuers ([LC Paper No. CB\(1\)368/2024\(03\)](#)) issued for the LegCo Panel on Financial Affairs meeting on 8 April 2024 by the Financial Services and the Treasury Bureau, when authorized institutions (e.g. banks), licensed corporations and licensed VATPs offer FRS issued by entities not licensed by MA, such stablecoins could only be offered to professional investors (as defined in Part 1 of Schedule 1 to SFO), and it must be indicated clearly that such FRS is not issued by a licensed FRS issuer. The Legal Adviser to the Bills Committee has sought clarification on whether and how such legislative intent has been reflected in the Bill.

30. The Administration has advised that the legislative intent is to limit the offering of specified stablecoins issued by an entity that is not licensed by MA to professional investors only. The persons to whom specified stablecoins issued by an entity other than a licensee may be offered will be specified for the purpose of clause 9(2)(b)(iii), by FS by notice published in the Gazette pursuant to clause 9(3) of the Bill.

31. As for the requirement to indicate that such specified stablecoins are not issued by a licensee, MA and SFC, as the regulator for VATPs and licensed corporations, will coordinate further on the way in which such requirement will be implemented. MA and SFC will issue a circular to require permitted offerors (as defined in clause 9(5) of the Bill, who will be regulated by either MA or SFC) to so indicate in the course of their offering of such specified stablecoins.

#### Reserve assets pool backing the specified stablecoins

32. One of the duties proposed to be imposed on the licensee under the Bill is that the licensee must ensure that the market value of the reserve assets pool backing the specified stablecoins must at all times be at least equal to the par value of the outstanding specified stablecoins in circulation. The reserve asset pool backing the specified stablecoins must consist of assets of high quality and high liquidity that can be readily realized to meet the demand for redemption. Members have enquired about the types of assets which may be accepted as reserve assets and whether precious metals such as gold will be so accepted.

33. The Administration has advised that, in general, high quality and high liquidity reserve assets may include cash, bank deposits, government bonds, repurchase agreements, reverse repurchase agreements and money market funds invested in the above assets.

34. Expressing concern about the appropriateness and adequacy of the reserve assets requirements for a licensee in respect of a specified stablecoin under the Bill, members have sought clarification on the similarities between the Bill and PSSVFO in terms of the reserve assets requirements for a licensee and the imposition of penalties for non-compliance with the requirements.

35. The Administration has advised that section 5(4) of Schedule 2 to the Bill provides that in relation to reserve assets, a licensee must comply with the minimum criterion (clause 24 of the Bill), i.e. reserve assets must be adequately protected against claims by other creditors of the licensee, and kept separate from any other funds paid to, or maintained or received by, the licensee. This is similar to the minimum criterion set out in section 7(c) of Schedule 3 to PSSVFO where an SVF licensee must ensure at all times that the float or SVF deposit is kept separate from any other funds paid to or maintained or received by the SVF licensee and is adequately protected by the measures adopted by the SVF licensee for protecting the float or deposit.

36. The Administration has further advised that section 5(6)(a) of Schedule 2 to the Bill provides that a licensee must also comply with the minimum criterion that it must have in place and implement adequate and appropriate risk management policies and procedures for managing its reserve assets to ensure that they are properly managed so that valid redemption requests can be honoured without undue delay. This is similar to the minimum criterion set out in section 7(a) of Schedule 3 to PSSVFO where an SVF licensee must have in place adequate risk management policies and procedures for managing the float or deposit to ensure that there will always be sufficient funds for the redemption of the stored value that remains on the facility. In both cases, failure to fulfill such minimum criterion (or any other minimum criteria) is a ground for revocation of licence.

#### Regulation of overseas entities

37. Under the proposed licensing regime, the Hong Kong Monetary Authority will similarly require an overseas entity to apply for a licence if it issues a stablecoin with reference to Hong Kong dollars. Even if the issuing entity is not located in Hong Kong and does not actively market to the public of Hong Kong, but as reference is made to Hong Kong dollars, it is still required to apply for a licence. To facilitate regulation and enhance

investor protection, some members have suggested that the Administration consider requiring overseas entities specified as “designated stablecoin entities” under Part 3 of the Bill to register and obtain a business registration certificate in Hong Kong under Part 16 of CO and establish a place of business in Hong Kong, so as to enhance investor protection.

38. The Administration has advised that clause 171 of the Bill provides that MA may, after consulting FS, make regulations related to designated stablecoin entities for the better carrying out of the purposes of the Bill. For instance, the regulations may, among other things, (a) provide for matters necessary or desirable for the better protection of the interests of holders or potential holders of any specified stablecoins; and (b) be of general or specific application and may apply only in specified circumstances; (c) make different provisions for different circumstances and provide for different cases or classes of cases, so as to better monitor and address the evolving risk in a timely manner. The Administration has added that depending on the circumstances and how the nascent stablecoin industry evolves, MA may consider prescribing requirements (including the requirement of establishing a place of business in Hong Kong) applicable to designated stablecoin entities which are incorporated in a place outside Hong Kong.

#### Comparison between the regulation of licensees and similar regulations under other regulatory regimes

39. The Bills Committee notes that in formulating the Bill, the Administration has adhered to the “same activity, same risks, same regulation” principle, and looked into the potential risks involved in stablecoin activities to the monetary and financial stability of Hong Kong. Members are concerned whether the regulation of licensees in the Bill is aligned with those under existing comparable regulatory regimes in terms of the nature of regulated activities and the risks involved. In this connection, members have asked the Administration to explain the similarities between the business of, and risks entailed in, carrying out a regulated stablecoin activity under the Bill and issuing an SVF under PSSVFO, and whether it is appropriate to give MA comparable powers.

40. The Administration has advised that reference has been drawn from relevant sections in PSSVFO and BO. Specifically, in formulating Division 4 of Part 2 of the Bill, reference has been drawn from Division 6 of Part 2A of PSSVFO, which sets out MA’s powers of control over licensees, and Part X of BO, which sets out MA’s powers of control over authorized institutions.

41. The Administration has pointed out that from a risk perspective, the issuance of a stablecoin and that of an SVF share common elements such as

issuance and redemption of payment instruments as well as holding of backing assets. Both activities could pose comparable risks to monetary and financial stability, user protection and integrity of payment services.

42. The Administration has further remarked that the aforementioned view is echoed by international discussions and practices. In the international forum, the Financial Stability Board<sup>1</sup> has highlighted that stablecoins could share functional similarities with payment systems (e.g. issuance, redemption and stabilization of the value of the stablecoins), and therefore be subject to the same risks. The approach to draw on SVF-relevant regulation is shared by other jurisdictions. In the European Union, stablecoin issuers are required to, among other things, obtain an electronic money institution licence<sup>2</sup>, which is comparable to an SVF licence in Hong Kong. In Singapore, stablecoin issuance service is proposed to be regulated under the existing Payment Services Act. Stablecoin issuers in Singapore will therefore be subject to comparable statutory powers as other entities regulated under such Act, such as e-money issuers, which are analogous to SVF issuers in Hong Kong.

43. Taking into account the comparable nature of and the risks involved in the abovementioned activities as well as prevailing international practices, the Administration considers that it is appropriate for MA to have comparable powers of control over licensees under the Bill that are equivalent to those given to MA under PSSVFO and BO.

#### Criteria to be fulfilled in order to be a licensee

44. Under the proposed licensing regime, a licensee must ensure the fulfilment of the relevant minimum criteria as specified in Part 2 of the proposed Schedule 2 to the Bill. Such minimum criteria would include, among others, that each person who holds the position of chief executive, director, stablecoin manager or controller of a licensee must be a fit and proper person to hold the position (section 7(2) of the proposed Schedule 2 to the Bill). The Legal Adviser to the Bills Committee has sought clarification from the Administration on the matters that MA would take into account in determining whether a person is a fit and proper person, and why such matters are not provided for in the Bill for the sake of clarity and certainty.

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<sup>1</sup> See [Regulation, Supervision and Oversight of “Global Stablecoin” Arrangements— Final Report and High-Level Recommendations](#) issued by the Financial Stability Board on 13 October 2020.

<sup>2</sup> [Article 48\(1\)\(a\) of “Regulation \(EU\) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets”](#)

45. The Administration has advised that in respect of fulfilling the “fit and proper” requirement, in general, the standards required of a person will vary considerably, depending on the particular position held, or to be held, by the person concerned in a licensee. In determining whether a person who holds the position of chief executive, director, stablecoin manager or controller of a licensee is fit and proper, MA will take into account a number of considerations, including but not limited to: (a) whether the person has a record of non-compliance with regulation, or has been censured, disciplined, publicly criticized or investigated by regulators; (b) whether the person has the commitment and ability to devote sufficient time and attention to the licensee’s business; (c) whether the person has been convicted of a criminal offence; and (d) whether the person has an adverse financial position that could undermine the operations of the licensee. The Administration has added that in line with the practice of administering the regulatory regime for authorized institutions and issuers of SVFs, MA will issue and publish in the Gazette guidelines under clause 170 of the Bill to provide guidance on the factors that MA will consider in determining a person’s fitness and propriety for each of the positions concerned.

#### Restrictions on employment of employees by licensees

46. Clause 64(1) of the Bill provides that certain persons (e.g. a person who is bankrupt or has been convicted of an offence involving fraud or dishonesty) must not become an employee of a licensee except with MA’s consent. Some members have questioned the need to impose such a stringent restriction on the employment of persons by a licensee who are not involved in the business of issuing specified stablecoins at all, and have suggested that clause 64 be amended to confine its application to persons involved in the business of issuing specified stablecoins instead of any employee.

47. The Administration has explained that the employment by a licensee of certain persons (such as those convicted of an offence involving fraud or dishonesty) may pose risks to the reputation of a licensee (and potentially to confidence in a licensee) and to the holders and potential holders of specified stablecoins. The policy objective of clause 64 of the Bill is to provide an opportunity for MA to consider such risks having due regard to the particular circumstances, including the nature and function of the employment concerned, to determine whether to consent or not to the employment. This practice is aligned with that in section 8ZZZ of PSSVFO and section 73 of BO. The Administration is of the view that limiting the scope of clause 64 of the Bill might restrict MA’s ability to consider such risks and to withhold consent, where appropriate. The Administration expects that, in practice, the occasions on which it is necessary for an application for MA’s consent to be made under clause 64 of

the Bill will be uncommon. Considering the above, the Administration does not consider it necessary to make amendments to clause 64.

Duty of licensee to report inability to meet obligations, etc.

48. Clause 25 of the Bill provides that as soon as practicable after it appears to a licensee that it is likely to become unable to meet its obligations, is insolvent or is about to suspend payment, it must report the matter to MA. Members have pointed out that the wording “it appears to” in clause 25(1) makes the triggering of the duty to report a merely subjective decision of a licensee, and may create a regulatory loophole for the licensee to deliberately circumvent the duty imposed on him/her under clause 25. Members have suggested that the Administration consider incorporating in the Bill objective factors in determining the presence of “reasonable excuse” as required under clause 25(2), so as to avoid a merely subjective decision by the licensee as to whether or not to take the actions required under clause 25(1).

49. In response to members’ aforesaid concerns and drawing reference from similar provisions in section 8R(2) of PSSVFO and section 67(1) of BO, the Administration will propose an amendment to remove, among others, “it appears to” such that the duty to report in clause 25(1) is triggered simply if any of the relevant circumstances arises (i.e. a licensee is likely to become unable to meet its obligations, is insolvent or is about to suspend payment).

Two types of licence suspension

50. Clauses 32 and 33 of the Bill empower MA to temporarily suspend a licence for a period not exceeding 14 days in case of urgency and to suspend a licence on a ground specified in Schedule 4 respectively. Members have asked the Administration to advise on the policy intent of the two clauses and the differences in their applicability, and how MA would, upon suspension of the licence of a specified stablecoin issuer by invoking the two clauses, deal with the stablecoins held by the stablecoin holders concerned.

51. The Administration has advised that the legislative intent of clause 32 of the Bill is that MA may temporarily suspend a licence, if a ground for revoking a licence exists and MA considers it necessary for urgent actions to be taken to protect the interests of the holders or potential holders of any specified stablecoins connected with the licence. The temporary suspension would be limited in duration to a maximum of 14 days. Clause 33 enables MA, after giving a licensee an opportunity to make representations, to suspend a licence for a longer period of up to 6 months (which may be renewed upon expiration for a period not exceeding 6 months) if a ground for revoking the licence exists. The policy intent is

that MA may exercise the power under clause 33 of the Bill as a step before revocation or as an alternative to revocation of the licence under clause 28.

52. The Administration has further advised that in deciding whether to exercise the power of temporary suspension under clause 32 of the Bill or the power of suspension under clause 33 of the Bill, MA would take into account the specific facts and circumstances of a particular case in a holistic manner, including but not limited to the gravity of the situation, the urgency with which actions need to be taken to protect the interests of the holders or potential holders of any specified stablecoins connected with the licence, the duration that may be required to implement remedial measures, and the representation made (where applicable).

53. As to how MA would, upon suspension of the licence of a stablecoin issuer, deal with the stablecoins held by the stablecoin holders, the Administration has advised that upon exercising the power to suspend under clause 33 of the Bill, MA will give directions on the handling of the reserve assets in respect of the relevant specified stablecoins (see clause 33(3)(d) of the Bill), and non-compliance with such directions is an offence under clause 34(4) of the Bill. Furthermore, all requirements relating to reserve assets management and redemption (as set out in the minimum criteria in Part 2 of Schedule 2 to the Bill) would remain applicable to a licensee during the period in which its licence has been suspended under clause 33 of the Bill or temporarily suspended under clause 32 of the Bill (see clause 34(2) of the Bill). If a licensee fails to meet any of such requirements, MA may, among other things, consider it necessary to direct the licensee to take immediate actions relating to its affairs, business or property under clause 78 of the Bill. A licensee who fails to comply with such requirement imposed under clause 78 of the Bill will commit an offence, and will be liable to a fine of \$2,000,000 and to imprisonment for five years on conviction on indictment.

#### Exercise of Monetary Authority's power to control licensees

54. The Bills Committee notes that clauses 78, 79 and 80 respectively empower MA to require a licensee to take an immediate action in relation to the licensee's affairs, business or property; to direct a licensee to seek advice from an advisor appointed by MA; and to direct that the affairs, business or property of a licensee are to be managed by a statutory manager appointed by MA. Members have asked the Administration to explain the policy intent of these clauses and their respective application.

55. The Administration has explained that the powers under clauses 78, 79 and 80 are intended to enable MA to take certain actions if they appear necessary in any of the serious situations (such as the licensee becoming

unable to meet its obligations, becoming insolvent or carrying on business in a manner detrimental to the interests of holders or potential holders of any specified stablecoins connected with the licence, as listed out in clause 77 of the Bill) which may pose risks to holders and potential holders of specified stablecoins, as well as the monetary and financial stability of Hong Kong. MA must consult FS before exercising the powers.

56. The Administration has further advised that a requirement under clause 78 of the Bill to take immediate action may be used to prevent the exacerbation of a problem while allowing time for the licensee concerned to take appropriate steps, as directed by MA, to rectify the problems identified. The power under clause 79 of the Bill for MA to direct a licensee to seek advice from an advisor appointed by MA on the management of its affairs is intended for circumstances where MA considers that the management of the licensee can still function and is acting in good faith, but requires the additional knowledge, experience and support of the appointed advisor. The power under clause 80 of the Bill for MA to direct that a licensee's affairs be managed by a statutory manager is intended for circumstances where MA considers that the management of the licensee cannot be relied upon to take appropriate steps to rectify the situation.

57. The Administration has added that in deciding whether to exercise one or more of these powers, MA will take into consideration the specific facts and circumstances of a particular case in a holistic manner, including but not limited to the competence of the management of the licensee, the urgency and severity of the situation and the time needed for taking remedial actions.

58. Members are also concerned whether MA, in exercising his/her powers by invoking clauses 78, 79 and 80 of the Bill, will specify the period within which a licensee is required to take measures and whether there is a mechanism for revoking his/her requirement or direction.

59. The Administration has said that for the power under clause 78 of the Bill, the timing is provided for in the empowering provision itself. Under clause 78 of the Bill, MA may, by written notice, require a licensee to take an immediate action relating to the licensee's affairs, business or property that MA considers necessary. Regarding the powers under clauses 79 and 80 of the Bill, a licensee will be subject to the direction (i.e. to seek advice from the appointed advisor, or to be managed by the appointed statutory manager, as regards its affairs, business or property covered by the relevant direction) for as long as the relevant direction remains in force. A direction given under clause 79 or 80 of the Bill may be revoked under clause 82(1) of the Bill, if it appears to MA that it is no longer necessary for such direction to remain in force and after consulting FS.

### Liability for the proposed new offences

60. The Bill proposes to introduce a number of new offences. The Bills Committee notes that except for the proposed new offences under clauses 11(1), 12(1), 49(4), 91(1) and (2), 112(7), 120(2), (3) and (4), 148(1), 149(2) and 152(1) of the Bill which would expressly require the elements of knowledge, intention and/or recklessness in the commission of the offences, other offences under the Bill (some of which not provided with statutory defence) (“Other Offences”) do not expressly contain similar mental elements. The Legal Adviser to the Bills Committee has sought clarification from the Administration on: (a) according to the Administration’s legislative intent, which of the Other Offences would be strict liability offences and which of them would be absolute liability offences (i.e. the prosecution need not prove the existence of *mentes reae* (i.e. the mental elements) of committing the offences); and (b) for each of the Other Offences intending to be a strict liability offence, whether it is the Administration’s legislative intent that the implied common law defence of “honest and reasonable mistaken belief” would be available to a person charged with such an offence; if so, whether the defendant would only bear an evidential burden (i.e. the second alternative referred to in *Kulemesin Yuriy and Another v HKSAR* (2013) 16 HKCFAR 195 (“*Kulemesin*”)), or would be required to discharge a persuasive burden (i.e. the third alternative referred to in *Kulemesin*), as to the defendant’s belief.

61. The Administration has advised that regarding the offences under the Bill which do not provide for *mentes reae*, its legislative intent is that these offences are strict liability offences (“Strict Liability Offences”) but not absolute liability offences. 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, the Administration’s 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. 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, the Administration’s legislative intent is that the second alternative in *Kulemesin* applies and the defendant bears an evidential burden of proof.

Composition of the Stablecoin Review Tribunal panel

62. The Bill proposes to establish a Stablecoin Review Tribunal (“the Tribunal”) to review the decisions made by MA under the Bill. Under clause 139(4) of the Bill, the Chief Executive must appoint a panel of persons whom the Chief Executive considers suitable for appointment as members of the Tribunal. Members note that the Bill does not set an upper or lower limit on the number of persons who may be appointed to the panel. Members have suggested that the Administration consider referring to the requirements in respect of the composition, qualifications of members and size of the appeal panel under the Protection of Critical Infrastructures (Computer Systems) Bill in prescribing the qualifications and number of panel members, so as to ensure that there will be a sufficient number of persons who are suitable and have the relevant knowledge and experience to serve as Tribunal members, thereby enhancing the credibility of the Tribunal.

63. The Administration has advised that the legislative intent is not to prescribe a minimum number of panel members or the composition of the panel in terms of required qualifications. This is in line with the equivalent provisions of BO, PSSVFO, AMLO and SFO. The panel will be constituted with sufficient members as the Chief Executive considers appropriate. The “suitability” requirement ensures that relevant skills, qualifications and experience will be taken into account in appointing panel members. The Administration therefore does not consider it necessary to make amendments to clause 139 of the Bill.

64. Separately, clause 139(5) of the Bill provides that the Chief Executive must not appoint to the panel a person who is a public officer, unless the person is a public officer only because the person is the chairperson or a member of a board or tribunal established by or under an Ordinance. Members have enquired what kind of “public officers” are to be excluded from appointment to the panel. Given that the meaning of “public officers” may be subject to different interpretations, members have suggested that consideration be given to providing a more explicit interpretation of “public officer” in the Bill so as to make it clearer what kind of “public officers” are intended to be included or excluded from being a member of the Tribunal panel.

65. The Administration has advised that under section 3 of the Interpretation and General Clauses Ordinance (Cap. 1), “public officer” means any person holding an office of emolument under the Government, whether such office be permanent or temporary. Hence, a person who holds the position of chairperson or member of a board or tribunal established by or under an Ordinance should in general be a “public officer” if that position is an office of emolument under the Government. In other

words, clause 139(5) of the Bill seeks to exclude public officers (i.e. a person holding an office of emolument under the Government, primarily civil servants) from being appointed to the panel, but does not seek to exclude a person who is a public officer only because the person is a chairperson or a member of a board or tribunal established by or under an Ordinance from being so appointed.

66. The Administration has also remarked that in formulating clause 139(5) of the Bill, reference has been drawn from the equivalent provisions relating to the tribunal appointment in other relevant financial regulatory regimes, namely PSSVFO, AMLO, SFO and the Financial Institutions (Resolution) Ordinance (Cap. 628). The Administration is of the view that the current drafting sufficiently reflects its legislative intent, viz. appointing non-public officers from the market, academia or other organizations as panel members of the Tribunal.

#### Review by the Stablecoin Review Tribunal

67. Under clause 140 of the Bill, a person (“Applicant”) who is aggrieved by a specified decision may refer the decision to the Tribunal for review. Under clause 141(4) of the Bill, a decision of the Tribunal on reviewing a specified decision is final and is not subject to appeal except on a point of law. In this connection, members have sought clarification on whether the Tribunal’s decision is subject to judicial review.

68. The Administration has advised that clause 146 of the Bill provides that the Applicant may appeal to the Court of Appeal against the Tribunal’s review decision made under clause 141 of the Bill on a point of law. Generally, before resorting to judicial review, the Applicant should exhaust all appeal procedures or other remedies available. If other remedies have not been exhausted, the court may refuse to grant leave for judicial review.

69. With respect to clause 141 of the Bill, the Applicant may invoke the appeal mechanism under clause 146 of the Bill to appeal to the Court of Appeal on a point of law. Pursuant to clause 146(4) of the Bill, the Court of Appeal may, on an appeal, confirm, vary or set aside the decision appealed against, or remit the matter to the Tribunal or MA with any direction that the Court of Appeal considers appropriate. Therefore, if the Applicant wishes to appeal against the Tribunal’s review decision under clause 141 of the Bill on a point of law, such appeal must be made through the appeal mechanism under clause 146 of the Bill, and not by way of judicial review.

70. On the other hand, if the Applicant does not intend to appeal on a point of law, the Applicant may not rely on the appeal mechanism under clause 146 of the Bill. In such a case, clause 141 does not preclude the

Applicant from seeking judicial review of the review decision on other grounds, such as ultra vires, irrationality or procedural impropriety.

#### Preventing misleading by virtue of the status as applicants for licence

71. Regarding clause 150 of the Bill “Certain representations by licensee or designated stablecoin entity prohibited”, members have suggested that consideration be given to including “applicants for licence” in this clause, so as to prevent ill-intentioned persons from making certain representations to mislead investors by virtue of their status as “applicants for licence”. There is also a suggestion that the Administration consider expressly setting out in the Bill the activities that an applicant for licence must not carry out.

72. The Administration has advised that the policy intent of clause 150 of the Bill is to address the situation in which a licensing or designation by MA under the Bill could potentially be misrepresented by such a licensee or a designated stablecoin entity as an endorsement or warranty as to the abilities and qualifications of the licensee or designated stablecoin entity. The Administration considers that the current formulation of clause 150 of the Bill sufficiently reflects the above policy intent, hence no amendment is necessary. The Administration has remarked that similar to other regulatory regimes administered by MA, once a properly completed application with all necessary supporting documents and information is received, the applicant will be notified in writing that application will be handled as “formal application” and the person who submits the application will be regarded as a “licence applicant”. The Administration does not consider it necessary to specify the restrictions on activities to be carried out by a licence applicant as the Bill already specifies those activities which are prohibited unless the person is licensed or other circumstances apply (e.g. clauses 8 and 9). Accordingly, an applicant for a licence may not conduct any such activities unless and until a licence is granted to the applicant. The Administration has added that MA will provide further guidance on licensing matters and reminders to licence applicants as appropriate.

#### Penalties for offences

73. Clause 8 of the Bill provides that a person carrying on, or holding out as carrying on, a regulated stablecoin activity without a licence or without being exempted, would be liable to a fine of HK\$5,000,000 and to imprisonment for seven years. Clause 9 of the Bill provides that offering, or holding out as offering, a specified stablecoin by a non-permitted offeror, would be liable to a fine of HK\$5,000,000 and to imprisonment for seven years. The Administration has been requested to provide the justifications

and criteria for the penalties, as well as whether the proposed penalties are different from those imposed under sections 114 and 115 of SFO.

74. The Administration has advised that the level of penalties for offences under clauses 8 and 9 of the Bill is aligned with section 53ZRD(5) of AMLO, which provides that offences related to (i) carrying on a business of providing a VA service (as defined in section 53ZR of AMLO); or (ii) holding himself out as carrying on a business of providing a VA service, is liable on conviction on indictment to a fine of HK\$5,000,000 and to imprisonment for seven years. It is also aligned with the penalty level for contravention of section 114(1) of SFO which provides that, subject to certain exceptions, no person shall (i) carry on a business in a regulated activity (as defined in section 1 of Part 1 of Schedule 1 to SFO); or (ii) hold himself out as carrying on a business in a regulated activity. By virtue of section 115(1) of SFO, such prohibitions also capture the provision and marketing of relevant services (which, if provided in Hong Kong, would constitute a regulated activity) from a place outside Hong Kong to the public of Hong Kong. Section 114(8) of SFO provides that a person who contravenes section 114(1) commits an offence, and is liable on conviction on indictment to a fine of HK\$5,000,000 and imprisonment for seven years.

#### Implementation of the new regulatory regime

75. Members have urged the Government to get ready for the implementation of the regulatory regime for stablecoin issuers, including the formulation of rules and guidelines and the timely processing of licence applications, in the meantime between the enactment of the Bill as an ordinance and its commencement. Members have also suggested preparing “a handy guide for dummies” to introduce the new regulatory regime to the public so as to enhance public awareness of regulated stablecoins. In addition, members are of the view that while protecting stablecoin holders, the Administration should also promote the development of related industries in Hong Kong. In this connection, members have enquired how the Administration would attract large international stablecoin issuers to apply for licences for issuance of specified stablecoins in Hong Kong.

76. The Administration has advised that it has been actively engaging market participants in the development of the regulatory regime for stablecoin issuers in Hong Kong. Existing and potential stablecoin issuers are welcome to submit applications for licences. It will also maintain communication with market participants and step up publicity after the passage of the Bill. However, whether to apply for a licence under the proposed regulatory regime is a commercial decision for individual companies.

### **Proposed amendments to the Bill**

77. Apart from the amendments as mentioned in paragraphs 28 and 49 above, the Administration will also propose a number of textual and technical amendments to the Bill.

78. The Bills Committee has examined the draft amendments and raised no objection. Neither has the Legal Adviser identified any difficulties relating to the legal and drafting aspects of the draft amendments. The Bills Committee will not propose any amendments to the Bill.

### **Resumption of Second Reading debate**

79. The Bills Committee has completed the scrutiny of the Bill. The Administration intends to resume the Second Reading debate on the Bill at the Council meeting of 21 May 2025. The Bills Committee raises no objection.

### **Consultation with the House Committee**

80. The Bills Committee reported its deliberations to the House Committee on 25 April 2025.

Council Business Divisions  
Legislative Council Secretariat  
15 May 2025

**Bills Committee on Stablecoins Bill**

**Membership list**

**Chairman** Hon Duncan CHIU

**Deputy Chairman** Hon Adrian Pedro HO King-hong

**Members** Hon Paul TSE Wai-chun, JP  
Dr Hon Junius HO Kwan-yiu, BBS, JP  
Hon CHAN Chun-ying, BBS, JP  
Hon Robert LEE Wai-wang  
Dr Hon Johnny NG Kit-chong, MH, JP  
Hon LAM San-keung, JP  
Hon Rock CHEN Chung-nin, SBS, JP  
Hon Benson LUK Hon-man  
Hon Edmund WONG Chun-sek  
Hon TANG Fei, MH  
Hon TANG Ka-piu, BBS, JP  
Dr Hon TAN Yueheng, JP  
Dr Hon SO Cheung-wing, SBS, JP

(Total : 15 members)

**Clerk** Mr Derek LO

**Legal Adviser** Mr Mark LAM