

# Building out Hong Kong's stablecoin regulatory framework – Stablecoins Bill

The Hong Kong Government has published the [Stablecoins Bill](#) (the **Bill**) which sets out the statutory framework for the proposed regime applicable to stablecoins (the **Proposed Regime**). The Bill is under the Legislative Council's consideration as at the date of this article's publication, having been gazetted on 18 December 2024. The First Reading in the Legislative Council took place on 18 December 2024 and it is now being considered by the Bills Committee.

The Proposed Regime is aligned with the conclusions of the Financial Services and the Treasury (the **FSTB**) and the Hong Kong Monetary Authority's (**HKMA**) joint consultation published in July 2024. For discussions around regulatory and policy intentions of the Proposed Regime, please see our August 2024 [client briefing](#).

The key features of the Proposed Regime are outlined below as we consider the licensing, product offering and extraterritorial pieces. We have also included as an appendix a summary of the key operational requirements pertaining to licensees and the management of reserves. One of the interesting pieces we have discussed broadly through the development of the Proposed Regime is the extraterritorial effect which will require careful consideration of both impact to the Hong Kong payment system as well as interaction with Hong Kong persons.

Whether you are an issuer, an intermediary or a service provider – onshore or offshore – Freshfields is here to help you plan for and steer through the Proposed Regime.

## An overview of licensing and product offering requirements

The Proposed Regime primarily regulates stablecoins that are "pegged to"<sup>1</sup> (i) one or more official currencies, (ii) one or more units of account or stores of economic value specified by the HKMA, or (iii) a combination of (i) and (ii). We consider below the licensing and product offering requirements.

### Licensing

The Proposed Regime introduces a licensing requirement where a person undertakes any of the following activities: (i) the issuance of stablecoins in Hong Kong; and (ii) the issuance of stablecoins pegged (wholly or partly) to the Hong Kong dollar in a place **outside Hong Kong**.

Unless appropriately licensed, it is an offence for a person to carry on a regulated activity or to hold out as carrying on a regulated activity. Holding out includes where a person actively markets, whether in Hong Kong **or elsewhere**, to the public of Hong Kong the carrying on or the purported carrying on of a regulated activity.

### Product offering

The offering of a stablecoin will also require a person to be licensed, although there is a wider class of eligible licences and authorisations in order to be eligible, which we set out below. A person offers a stablecoin when they make, in the course of business, a communication (in any form and by any means) to another person that presents sufficient information on all of the following matters to enable that other person to decide whether to acquire stablecoins from them: (i) the stablecoin to be offered, (ii) the terms on which the stablecoin will be offered and (iii) the channels through which the stablecoin will be offered.

<sup>1</sup> i.e. "purports to maintain a stable value with reference wholly to"

It is an offence for a person to offer or to hold out as offering a stablecoin, unless the person is (i) an issuer licensed under the Proposed Regime; (ii) a corporation licensed for Type 1 regulated activity under the Securities and Futures Ordinance; (iii) an operator of a virtual asset trading platform licensed under the Anti-Money Laundering and Counter-Terrorist Financing Ordinance; or (iv) a Hong Kong licensed bank. Holding out includes actively marketing, whether in Hong Kong **or elsewhere**, to the public of Hong Kong the carrying on or the purported carrying on of offering a stablecoin.

## Offshore stablecoin issuers and stablecoin payment systems

In addition to licensing and product offering requirements, the Proposed Regime also introduces the concept of “designated stablecoin entities” which may affect entities operating outside of Hong Kong.

The HKMA is empowered to designate entities **incorporated or established outside Hong Kong** as “designated stablecoin entities” if those entities issue stablecoins **outside Hong Kong**, or provide services to a stablecoin payment system (in **or outside Hong Kong**) and in the HKMA’s opinion such issuance or provision of services are, or are likely to become, material to Hong Kong’s monetary or financial stability, or functioning as an international financial centre. The HKMA may also designate an entity as a designated stablecoin entity after having regard to matters of significant public interest.

Designated stablecoin entities are required to (i) maintain appropriate and adequate financial resources and (ii) have in place operating rules, monitoring and compliance arrangements, and systems of control for reserve management, and disclosure and risk management. Designated stablecoin entities are to be kept on a register by the HKMA and will be required to provide the names of and information about their directors, shareholders and chief executive officer.

The HKMA is empowered to require designated stablecoin entities to (i) provide information or documents, (ii) examine their books and accounts and (iii) direct them to take any action the HKMA considers necessary to comply with the Proposed Regime. Additionally, the HKMA is also empowered to impose sanctions on designated stablecoin entities up to a maximum of the greater of HKD10,000,000 or three times the amount of profit gained / loss avoided from a contravention of the Proposed Regime.

## Transitional arrangements

Transitional arrangements are provided for entities conducting regulated activities after the commencement of the Proposed Regime (**Existing Stablecoin Entities**).

Existing Stablecoin Entities may continue their regulated activities without a licence for (i) the first three months after the commencement of the Proposed Regime and (ii) a further three months (i.e., a total of six months after the Proposed Regime comes into effect) if, within the first three months, the Existing Stablecoin Entity applies for a licence, the HKMA acknowledges receipt of the licence application, and the Existing Stablecoin Entity provides a written declaration and undertaking which ensure compliance with certain terms in the Proposed Regime (the **Application Requirements**).

An Existing Stablecoin Entity will be required<sup>2</sup> to enter a one month closing down period if (i) within the first three months after the Proposed Regime comes into effect, it does not comply with the Application Requirements or (ii) its licence application is withdrawn or rejected.

There may be scope for the HKMA to grant provisional licences to Existing Stablecoin Entities that have complied with the Application Requirements and have a reasonable prospect of successfully showing the HKMA that it can comply with the regulatory requirements applicable to a licensee. Details of these arrangements will become clearer once the implementing regulations and guidelines are set out.



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<sup>2</sup> During the closing down period, the HKMA is empowered to impose requirements on Existing Stablecoin Entities including (among others) a requirement to: (i) continue or cease the regulated activity, (ii) deal or refrain from dealing with any assets in a specified manner

and (iii) maintain assets such that those assets will enable the Existing Stablecoin Entity to meet its liabilities and can be freely transferred or otherwise disposed of by the Existing Stablecoin Entity.

## Stablecoins in Hong Kong: regulated products and activities

<p style="text-align: center;"><b>Product</b></p>	<p><b>What kinds of stablecoins are in scope?</b></p> <p>Stablecoins that purport to maintain a stable value with reference wholly to (i) one or more official currencies, (ii) one or more units of account or stores of economic value specified by the HKMA, or (iii) a combination of (i) and (ii) (a <b>Specified Stablecoin</b>).</p> <p>An “official currency”, in relation to a jurisdiction, means the currency issued by the government, the central bank, the monetary authority, or an authorized note-issuing bank, of that jurisdiction.</p> <p>The proposal currently does not capture commodity-linked or precious metal-linked stablecoins.</p> <p>The proposed definition of stablecoin is broad enough to capture stablecoins that derive their value from arbitrage or algorithms.</p>	<p><b>What is a ‘stablecoin’?</b></p> <p>A cryptographically secured digital representation of value that:</p> <ul style="list-style-type: none"> <li>(a) is expressed as a unit of account or a store of economic value; is used, or is intended to be used, as a medium of exchange accepted by the public, for the purpose of (i) payment for goods or services; (ii) discharge of a debt; and/or (iii) investment;</li> <li>(b) can be transferred, stored or traded electronically;</li> <li>(c) operates on a decentralised distributed ledger (i.e., a distributed ledger in which no person has the unilateral authority to control or materially alter its functionality or operation) or similar technology; <u>and</u></li> <li>(d) purports to maintain a stable value with reference to a single asset, or a pool or basket of assets.</li> </ul>	
<p style="text-align: center;"><b>Regulated activities</b></p>	<p><b>Regulated activities</b></p> <p>Where a person:</p> <ul style="list-style-type: none"> <li>(a) issues, or holds oneself out as issuing a Specified Stablecoin in Hong Kong;</li> <li>(b) issues, or holds oneself out as issuing, a stablecoin that purports to maintain a stable value with reference (wholly or partly) to the value of the Hong Kong dollar; <u>or</u></li> <li>(c) actively markets its issuance of a Specified Stablecoin to the public of Hong Kong.</li> </ul> <p>Extraterritoriality application: under both (b) and (c), even if carried on outside of Hong Kong.</p>	<p><b>Product offering</b></p> <p>Only licensed Specified Stablecoin issuers, licensed banks, and corporations and virtual asset trading platforms licensed with the Securities and Futures Commission (<b>SFC</b>) can offer Specified Stablecoins in Hong Kong or actively market such offerings to the Hong Kong public.</p> <p>The HKMA has indicated in their earlier consultations that Specified Stablecoins issued by entities not licensed by the HKMA may only be offered to professional investors by licensed banks, and corporations and virtual asset trading platforms licensed with the SFC.</p>	<p><b>What does “actively market” mean?</b></p> <p>The HKMA references the approach adopted by the SFC under the securities regulatory regime and which involves taking into account factors that include:</p> <ul style="list-style-type: none"> <li>(a) the language used in the marketing messages, whether the message is targeted at a group of people that reside in Hong Kong; <u>and</u></li> <li>(b) whether a Hong Kong domain name is used for its website.</li> </ul>

## Licensed issuers

<b>Operational</b>	<p><b>Restrictions on business activities</b></p> <p>HKMA approval is required before a Specified Stablecoin issuer commences <u>any</u> new lines of business.<sup>3</sup></p>	<p><b>Financial resources requirement</b></p> <p>Specified Stablecoin issuer must have adequate financial resources and liquid assets to meet its obligations (whether actual or contingent).</p>	<p><b>Disclosure</b></p> <p>Specified Stablecoin issuers are required to disclose to the public on:</p> <ul style="list-style-type: none"> <li>(a) its policy on management of “reserve assets”;</li> <li>(b) an assessment of the risks arising from its reserve assets and the management of the risks;</li> <li>(c) the composition and market value of its reserve assets;</li> <li>(d) the results of regular independent attestation and audit of its reserve assets conducted by a qualified and independent auditor; <u>and</u></li> <li>(e) redemption rights applicable to a Specified Stablecoin issued by the Specified Stablecoin issuer (including, in relation to the redemption right, the fee, the condition for exercising the right, mechanisms and procedures for redemption and the time to process a redemption request).</li> </ul>
	<p><b>Localisation requirement</b></p> <p>Specified Stablecoin issuer must be a company incorporated in Hong Kong. Key management personnel must also be based in Hong Kong.</p>	<p>A minimum paid-up share capital requirement is required of either:</p> <ul style="list-style-type: none"> <li>(a) HKD 25 million or an equivalent amount in another currency that is freely convertible into Hong Kong dollars or is approved by the HKMA for the purposes of satisfying the financial resources requirement; <u>or</u></li> <li>(b) other financial resources as approved by the HKMA that are equivalent to or exceed the amount in (a).</li> </ul>	
<b>Reserves management</b>	<p><b>Reserves requirements</b></p> <p><b>Backing</b></p> <p>For each type of Specified Stablecoin issued, the amount of that Specified Stablecoin must always be fully backed by reserve assets.</p> <p>Issuers of a Specified Stablecoin that derives its value from arbitrage or algorithm will not be granted a licence under the Proposed Regime given the absence of any backing assets with inherent value.</p>	<p><b>Investment limitations</b></p> <p>The reserve assets must be of high quality and high liquidity with minimal investment risks (e.g., minimal market, credit and concentration risk).</p> <p>Specified Stablecoin issuers must have adequate and appropriate risk management policies and procedures for managing reserve assets so that valid redemption requests can be honoured without undue delay.</p>	<p><b>What constitutes “high-quality and high-liquidity reserve assets”?</b></p> <p>The HKMA has indicated in their earlier consultations that these may include:</p> <ul style="list-style-type: none"> <li>(a) coins and banknotes;</li> <li>(b) deposits placed with licensed banks;</li> <li>(c) marketable securities representing claims on or guaranteed by governments, central banks or qualified international organisations with high credit quality;</li> </ul>

<sup>3</sup> Based on current HKMA feedback through consultations, a Specified Stablecoin issuer must not engage in lending or financial intermediation activities: <https://www.hkma.gov.hk/media/eng/doc/key-information/press-release/2024/20240717e3a1.pdf>

## Licensed issuers

<b>Reserves management (cont.)</b>	<p><b>Currency denomination</b></p> <p>Unless approved by the HKMA, reserve assets must be held in the same currency as that referenced by the Specified Stablecoin. The HKMA has indicated in their earlier consultations that for HKD-referenced stablecoins, Specified Stablecoin issuers may, subject to the HKMA’s approval, have the flexibility to include USD-denominated reserve assets.</p>	<p>Specified Stablecoin issuers should be able to demonstrate to the HKMA that their investment policies, and liquidity and risk management policies are commensurate with the size and complexity of their businesses.</p> <p>The HKMA has indicated in their earlier consultations that it will adopt a risk-based regulatory approach.</p>	<p>(d) overnight reverse repurchase agreements with minimal counterparty risk backed by these securities; <u>and</u></p> <p>(e) tokenised versions of the above assets.</p>
	<p><b>Segregation and safekeeping requirements</b></p> <p>Reserve assets must be (a) segregated from the Specified Stablecoin issuer’s own assets, and (b) adequately protected against claims by other creditors of the Specified Stablecoin issuer in all circumstances.<sup>4</sup></p>	<p><b>Redemption requirements</b></p> <p>Specified Stablecoin issuers must fulfil redemption requests as soon as practicable after receiving a redemption request.</p>	<p><b>Restrictions on profit distribution</b></p> <p>A Specified Stablecoin issuer must not pay, or permit to be paid, any interest (meaning any profit, income or other return represented to arise or to be likely to arise from holding the Specified Stablecoin) in relation to a Specified Stablecoin that it issues.</p>

<sup>4</sup> The HKMA has indicated in their earlier consultations that there must be in place an “effective trust arrangement” that provides Specified Stablecoin users with legal rights and priority claims on the reserve assets in the event of the Specified Stablecoin issuer’s failure. A trust arrangement is not expressly prescribed under the Bill – it remains to be seen whether this requirement will make it into the HKMA’s future guidelines.

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