

LCQ19: Virtual asset trading platforms

Following is a question by the Hon Leung Che-cheung and a written reply by the Secretary for Financial Services and the Treasury, Mr Christopher Hui, in the Legislative Council today (March 17):

Question:

The Securities and Futures Commission (SFC) issued a statement on virtual asset trading platforms (VATPs) in November 2018, setting out a conceptual framework (the framework) that aims to explore a pathway for compliance for VATP operators who are willing to be supervised by the SFC. Under the framework, the SFC will, in its Regulatory Sandbox, explore whether VATPs are suitable for regulation, and will observe the operation in the Sandbox environment of those VATP operators who are interested in engaging in the relevant business, and whether they are able to comply with the proposed regulatory requirements; if the SFC is of the view, at the end of that stage, that it is appropriate to regulate the VATP operators concerned, it will consider granting licences. The SFC announced in December 2020 that it had granted the first licence to a VATP in Hong Kong. In this connection, will the Government inform this Council if it knows:

- (1) the respective up-to-date numbers of applications received by the SFC for inclusion of VATPs in the Regulatory Sandbox and for granting of licences to VATPs;
- (2) the criteria adopted by the SFC for vetting and approving licence applications;
- (3) the measures put in place by the SFC to assist those VATP operators whose operation in the Sandbox environment has been unsatisfactory in applying for licences;
- (4) the number of licences that the SFC has planned to grant, and whether the SFC has set a limit on the number of licence to be granted; the validity period of the licences in general; and
- (5) whether the SFC will relax the licensing condition that VATP operators may provide services to professional investors only, so that they may provide services to retail investors at the same time?

Reply:

President,

Having consulted the Securities and Futures Commission (SFC), our consolidated response to the question is as follows.

In view of the development of virtual assets (VA), the SFC announced a

conceptual framework in November 2018 for the regulation of VA trading platforms in Hong Kong. Following exploratory discussion with market operators on regulatory requirements, the SFC issued a position paper in November 2019 setting out a licensing framework for platforms which offer trading of securities-type VAs or tokens (voluntary opt-in regime). The voluntary opt-in regime only applies to those platforms which offer trading services involving at least one VA with securities features. Platforms solely trading non-securities VAs are not covered.

Under the voluntary opt-in regime, any platform operator who is interested in applying for a licence may submit an application to the SFC. In vetting applications, the SFC will consider factors including the business model of the applicant, whether the applicant can meet the "fit-and-proper test" and whether the applicant is capable of meeting the regulatory requirements that are comparable with those applicable to licensed securities brokers and automated trading venues. In addition, having regard to the nature and risks of VAs, the SFC will also consider an applicant's competence in areas including custody of assets, cybersecurity, customer due diligence, anti-money laundering, prevention of market manipulation and abuse, and product due diligence. The relevant factors of consideration are set out in the "Terms and Conditions for Virtual Asset Trading Platform Operators" attached to the position paper.

A licensed platform operator will be subject to the supervision of the SFC and required to observe the licensing conditions. Key licensing conditions include requirements that the platform operator can only offer services to professional investors, must impose stringent criteria for the inclusion of VAs to be traded on its platform, and that the platform operator can only provide services to clients with sufficient knowledge of VAs. Same as other licences granted by the SFC, a licence granted under the voluntary opt-in regime does not have a specified term and remains valid until it is revoked.

As the VA industry is an emerging sector involving higher risks than conventional financial products, a licensed platform operator will only be allowed to offer services to professional investors. Such a requirement is necessary to ensure a proper degree of protection for investors. The SFC will closely monitor market development and review the relevant requirement as appropriate having regard to the maturity of the market.

Since the launch of the voluntary opt-in regime, the SFC has officially accepted four applications for review. The SFC granted the first licence to a platform operator in December 2020, and is currently considering the other applications. The SFC does not set any limit on the number of licences.