

LCQ5: Issuance of cryptocurrency

Following is a question by the Hon Dennis Kwok and a reply by the Acting Secretary for Financial Services and the Treasury, Mr Joseph Chan, in the Legislative Council today (May 30):

Question:

It has been reported that the development of financial technology has been feverish in recent years globally. Quite a number of people raise funds through initial coin offering to exchange for a widely used cryptocurrency or cash in order to raise money to fund the research and development of a particular blockchain-related project. It has also been reported that the People's Bank of China (PBoC) will issue a statutory digital currency, and such a move will bring mammoth changes to both the Hong Kong and global economies. In this connection, will the Government inform this Council:

(1) whether the authorities will consider afresh enacting legislation to regulate the issuance, trading and storage of cryptocurrencies; if so, of the details and the timetable; if not, the reasons for that;

(2) whether the authorities have taken measures to ride on the opportunities arising from PBoC's issuance of a statutory digital currency to develop Hong Kong into an offshore or international trading hub for the digital currencies concerned; if so, of the details; if not, the reasons for that; and

(3) whether the Hong Kong Monetary Authority will, by making reference to the practices of overseas countries, explore the issuance of a free-circulating statutory digital currency and make it a means of payment that has legal backing, as well as enacting legislation to regulate the relevant trading platforms, so that the Government may monitor the relevant transactions systematically to prevent lawbreakers from using such currencies and platforms for conducting illegal activities including but not limited to money laundering?

Reply:

President,

My reply to the questions raised by the Hon Dennis Kwok is as follows:

(1) In promoting financial technologies (Fintech), the Government strives to facilitate financial innovation on the one hand and to protect the investing public in accordance with existing laws on the other.

The regulatory approaches towards initial coin offerings (ICOs) and "cryptocurrencies" vary across jurisdictions. Some regulators impose a ban, while other regulators leverage on existing regimes to regulate. The G20 meeting held in end March 2018 discussed the risks and related issues brought about by "cryptocurrencies". The meeting agreed that there was a need to closely monitor the situation. We will continue to monitor the development of

ICOs and "cryptocurrencies" in Hong Kong, and maintain close contacts with regulators in other jurisdictions through active participation in meetings of relevant international organisations, such as the International Organization of Securities Commissions and the Financial Stability Board.

Our financial regulators are closely monitoring the development of ICOs and "cryptocurrencies" in Hong Kong. They are also taking appropriate measures to safeguard the interest of the investing public.

In September 2017, the Securities and Futures Commission (SFC) published a statement which pointed out that if digital tokens offered in an ICO were "shares", "debentures", or interests in a "collective investment scheme (CIS)", they would fall under the definition of "securities". In such cases, dealing in or advising on the digital tokens, or managing or marketing a fund investing in such digital tokens, might constitute a "regulated activity" and would require registration or a licence from the SFC.

The SFC also noted that futures and commodities exchanges in the United States had launched Bitcoin futures contracts. The SFC issued a reminder in December 2017 that dealing in such contracts for investors in Hong Kong and engaging in related services, including relaying or routing orders, constituted regulated activities and required a licence from the SFC regardless of whether the business was located in Hong Kong.

In February 2018, the SFC issued an announcement that it had taken regulatory actions against a number of "cryptocurrency" exchanges and issuers of ICOs. The SFC had sent letters to "cryptocurrency" exchanges and issuers of ICOs in Hong Kong or with connections to Hong Kong, cautioning them that they should not trade "cryptocurrencies" which were "securities" without a licence. Most of these "cryptocurrency" exchanges either confirmed that they did not provide trading services for such "cryptocurrencies" or took immediate rectification measures, including removing such "cryptocurrencies" from their platforms. Issuers of ICOs also confirmed compliance with SFC's regulatory regime or immediately ceased to offer tokens to investors in Hong Kong.

(2) Central Bank Digital Currency (CBDC) has been an important subject within the central banking community. The Committee on Payments and Market Infrastructures (CPMI) and the Markets Committee (MC) of the Bank for International Settlements have formed a working group comprising all major central banks to conduct an in-depth study on the subject. The Committee members include the People's Bank of China (PBoC) and the Hong Kong Monetary Authority (HKMA).

The CPMI and the MC have recently issued a CBDC study report which sets out the general consensus among the central banking community. The overall finding is that while currently proposed implementations of CBDC for wholesale payments look broadly similar to, and not clearly superior to, existing infrastructures; CBDC that could be made widely available to the general public and serve as an alternative safe, robust and convenient payment instrument raises important questions and challenges that would need to be addressed. Most importantly, benefits of a widely accessible CBDC may

be limited if efficient private retail payment products are already in place or in development. As a result, CBDC remains a subject which requires further study and more proof-of-concept work to ascertain its feasibility for payment applications.

The HKMA will continue to engage with the central banking community, including the PBoC, to study the potential and the costs and benefits of implementing CBDC.

(3) The HKMA has carried out research on CBDC. At the same time, the HKMA notes that the benefits of CBDC and its efficiency gains will depend on the actual circumstances of a jurisdiction. In the context of Hong Kong, the already efficient payment infrastructure and services make CBDC a less attractive proposition. The HKMA has no plan to issue CBDC at this stage but will continue to monitor the international development.

The anonymous nature of holding and transacting "cryptocurrencies" poses potential money laundering or terrorist financing risks. Financial institutions and related persons must comply continuously with the statutory customer due diligence and record keeping requirements under the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance and relevant guidelines when establishing or maintaining business relationships with customers who are operators of any schemes or businesses relating to "cryptocurrencies".

Overall, the Government will continue to closely monitor the development of ICOs and "cryptocurrencies". While promoting financial innovation, we will also strive to protect the interest of the investing public. The Government, relevant regulators and the Investor Education Centre have rolled out a series of measure to remind investors of the associated risks.