



## **Consultation Paper on Legislative Proposal to Regulate Virtual Asset Custodian Services**

### **The Law Society's Submissions**

The Financial Services and the Treasury Bureau (FSTB) and the Securities and Futures Commission (SFC) released a consultation paper on “Legislative Proposal to Regulate Virtual Asset Custodian Services” (“Consultation Paper”) on 27 June 2025.

In response, the Law Society provides the following submissions. Unless otherwise defined, the same abbreviations and definitions appearing in the Consultation Paper are used in this paper.

*Q1. Do you have any comments on the proposed definition and scope (e.g. too narrow or too wide) of VA custodian services to be regulated?*

#### **Law Society's response:**

The Law Society is of the view that the proposed definition of VA custodian services, being the safekeeping of “(i) VAs on behalf of clients; or (ii) instruments enabling transfer of VAs of clients (including but not limited to private keys) on behalf of clients”, is adequate.

We suggest that the FSTB and SFC should adopt the practice similar to the fund industry. For retail investment, the SFC should only regulate and grant licence to the primary and principle custodian only. Such custodian will then be allowed to delegate and appoint reputable sub-custodians (without the need for such sub-custodians to obtain the relevant SFC licence). The top custodian will have oversight and remain responsible for the deficiencies of the sub-custodian. Similar to the type 13 RA regime, there should be some exemption or light touch when acting as custodian for professional investors.

Q2. *For entities which do not safekeep private keys but arrange a third party to custody the client VAs or otherwise safekeep the private keys (such as a private fund trustee of a VA fund that delegates the safekeeping of private keys to a sub-custodian), should they be required to obtain a VA custodian service provider licence? Please explain your comments.*

**Law Society's response:**

For the protection of the investing public in Hong Kong, the Law Society is of the view that entities providing custodian service to non-professional investors should be required to obtain a VA custodian service provider licence, even if such entities do not safekeep private keys but arrange a third party to custody the client VAs and/or safekeep the private keys.

Q3. *Are there any entities which should be licensed or registered for providing VA custodian services but are not caught by the proposed definition? Please explain your comments.*

**Law Society's response:**

The Law Society is of the view that the scope of the proposed definition is adequate.

Q4. *For an entity ("Entity A") within a corporate group that safekeeps private keys whereby personnel from different group entities ("Group Entities") may also be involved in safekeeping the private key and/or signing a VA transaction:*

- (i) *Should the Group Entities be required or not be required to obtain VA custodian service provider licences? Please explain your comments.*
- (ii) *If the answer to (i) is yes, please provide your comments on the types of personnel within the Group Entities which should obtain an individual licence ("Relevant Personnel"). What steps of the transactions should trigger this licensing requirement?*
- (iii) *If the answer to (i) is no, please provide your comments on whether the Relevant Personnel of the Group Entities should be required to be accredited to Entity A (assuming Entity A will obtain a VA custodian service provider licence) and also obtain an individual licence. Please explain your comments.*

**Law Society's response:**

In line with the approach to regulated activities in Hong Kong, the Lawyer Society is of the view that the Group Entities should not be required to obtain VA custodian service provider licences. The Relevant Personnel of the Group Entities should be required to be accredited to Entity A (assuming Entity A will obtain a VA custodian service provider licence) and also obtain an individual licence.

Q5. *What are your comments on the proposed exemptions? Would there be other exemptions that are necessary?*

**Law Society's response:**

The Law Society is of the view that the proposed exemptions are adequate.

Q6. *Do you have any comments on the proposed scope of allowed activities?*

**Law Society's response:**

The Law Society has no comment on the proposed scope of allowed activities.

Q7. *Do you have any comments on the types of VAs that a VA custodian service provider should not provide custodian services for?*

**Law Society's response:**

The Law Society is of the view that there should be no restriction on the types of VA that can be custodied by a VA custodian.

Q8. *Do you have any comments on the scope of individual licence and engagement as relevant individuals for providing VA custodian service?*

**Law Society's response:**

The Law Society has no comment on the scope of individual licence and engagement as relevant individuals for providing VA custodian service.

Q9. *Should individuals with authority to approve or sign VA transactions be required to obtain a licence or be engaged as relevant individuals? If yes, what steps of the transactions should trigger this requirement?*

**Law Society's response:**

The Law Society is of the view that individuals with authority to approve or sign VA transactions should be required to obtain a licence or be engaged as relevant individuals. The steps of the transactions triggering this requirement should include deposit, withdrawal and settlement.

Q10. *Do you think that licensed VA custodian service providers should be subject to the similar financial requirements as licensed corporations carrying on Type 13 regulated activity of providing depositary services for a relevant CIS? Do you think additional resources calibrated with scale of business or operations are required?*

**Law Society's response:**

The Law Society is of the view that licensed VA custodian service providers should be subject to similar financial requirements as licensed corporations carrying on Type 13 regulated activity of providing depositary services for a relevant CIS, with additional resources calibrated with scale of business or operations being required.

Q11. *Should other regulatory requirements be added to mitigate the risks of VA custodian services?*

**Law Society's response:**

The Law Society has no view on if/what additional regulatory requirements should be required.

Q12. *What are your comments on the proposed transitional arrangement for the licensing regime for VA custodian service providers?*

**Law Society's response:**

The Law Society has no comment on the proposed transitional arrangement for the licensing regime for VA custodian service providers.

Q13. *Based on the “user-pays” principle, do you have any comments on requiring higher licensing application fees and annual fees for a VA custodian service provider licensed by or registered with the SFC (such as requiring fees in the same amounts as those for Type 3 regulated activity under the SFO or other higher amounts)?*

**Law Society's response:**

The Law Society has no comment on requiring higher licensing application fees and annual fees for a VA custodian service provider licensed by or registered with the SFC.

Q14. *Do you agree that, for the purpose of protecting the investing public, persons not licensed by or registered with the SFC should not be allowed to actively market VA custodian services to the public of Hong Kong?*

**Law Society's response:**

The Law Society agrees that persons not licensed by or registered with the SFC should not be allowed to actively market VA custodian services to the public of Hong Kong. This is in line with the approach to regulated activities in Hong Kong.

Q15. *Do you agree that the SFC and the HKMA should be provided with the proposed powers?*

**Law Society's response:**

The Law Society agrees that the SFC and the HKMA be provided with the proposed powers.

Q16. *Do you agree with the proposed sanctions, which are comparable to those under the existing regulatory regimes for VATPs?*

**Law Society's response:**

The Law Society agrees with the proposed sanctions.

*Q17. Do you agree that a review tribunal mechanism should be put in place to handle appeals against the decisions to be made by the SFC or the HKMA in implementing the licensing regime?*

**Law Society's response:**

The Law Society agrees that a review tribunal mechanism be put in place to handle appeals against the decisions to be made by the SFC or the HKMA in implementing the licensing regime.

**The Law Society of Hong Kong  
20 August 2025**