

BALANCING INNOVATION AND REGULATION IN PRIVATE DIGITAL ASSET MARKETS: THE RELEVANCE OF INTERNATIONAL REGULATORY STANDARDS AND EMERGING STABLECOINS REGIME IN HONG KONG SAR

M. P. RAMASWAMY

Faculty of Law, University of Macau, Macau SAR

<https://doi.org/10.37602/IJREHC.2025.6422>

ABSTRACT

Hong Kong SAR, as one of the leading financial centres in the world, has introduced a very recent legislative framework establishing a virtual asset regulatory and licensing regime for Fiat Referenced Stablecoins (FRS) business. The objective of the paper is primarily focused on assessing how the new stablecoins regime introduced in Hong Kong in May 2025 effectively balances market facilitation and other stakeholders' interest and to determine how the emerging standards are aligned with relevant international regulatory standards governing stablecoins. The paper assesses pertinent international regulatory initiatives on stablecoins to determine the scope and ambit of key legal definitions, principles and regulatory standards, which can be a frame of reference for regulatory evolution in individual jurisdictions. The policy debates and dilemmas faced in Hong Kong in the years preceding the introduction of the new regulatory regime are examined to trace the process of refinement and its influence on the present regulatory standards. The select set of key provisions of the new Stablecoins Ordinance entering force in August 2025 are closely reviewed to identify how specific legal definitions and regulatory standards are seeking innovation and balance, while achieving broad regulatory goals.

Keywords: Crypto Assets, Stablecoins, International Standards, National Regulation, Hong Kong, Balance of Interests

1.0 INTRODUCTION

The classic dichotomy between harnessing technology and regulating its use for the benefit and protection of a society, cannot be seen more pronounced than in the case of digital assets market. Unlike various other fields of digital technology applications, services offering digital assets using encryption and distributed ledger technology (DLT) are often perceived as precarious warranting specific policy and regulatory intervention. In particular, issuing and circulating of private crypto currencies are generally seen as a sensitive endeavour in many societies due to its ability to emulate and compete with certain restricted functions like those served by sovereign fiat currencies as well as its potential to pose a range of financial or economic risks. Given the apprehension of such risks emanating from private digital assets and its threat of encroachment upon sovereign prerogative of issuing and handling of national currencies, some jurisdictions have issued outright ban on the introduction and circulation of such assets. However, most jurisdictions have not made much official endeavour in

undertaking policy or legislative measures, which could be qualified as a wait and see response based on how the technology or the market develops and how other jurisdictions react.

In the said context, it is relevant to note that some of the developed countries and markets, which typically react with prompt response to tame into emerging technologies, have shown a cautious approach in actively embracing the wide range of digital assets and crypto currencies. Even if they did not ban the development of digital assets or currencies in their markets, the related policy or legislative response were generally slow to come. Despite the resolute recommendations from major international institutions like Financial Stability Board (FSB) and Bank of International Settlement (BIS) as early as 2020 calling national authorities to introduce various regulatory, supervisory and oversight measures on crypto assets like stable coins, concrete national regulatory measures are starting to emerge only now. This lukewarm response could be attributed to various uncertainties and policy dilemmas individual jurisdictions faced albeit often initiating some studies and public consultations on the matter. Under such circumstances, jurisdictions like Hong Kong SAR and others which strive to excel as leading financial centres in the world were particularly feeling the pressure to react with necessary policy and legislative measures to stay ahead of the equation but at the same time ensure essential interest stay protected.

As a newly emerging field of governance, some of the pertinent early policy and regulatory responses in key jurisdictions tend to be very diverse and varied. Moreover, international efforts to harmonize national standards and regulations are still scant although the first generation of national regulatory standards often have a common source of inspiration from the recommendations of international institutions like FSB and BIS. Therefore, carrying out self-introspection and comparative law reviews of distinct domestic legislative developments is crucial for individual jurisdictions like Hong Kong to ascertain and maintain stability and leadership of their financial services market. Moreover, international investors and service providers will inevitably seek to assess the comparative regulatory environment governing digital asset markets to determine market entry and investment levels. In such a background, the present paper aims to closely review the newly introduced regulatory mechanism governing a specific type of digital asset in Hong Kong, namely the stablecoins, to determine how it seeks to balance between the perceived benefits and threats.

Being a very recent regulatory measure, the Hong Kong Stablecoins Bill introduced in May 2025 and slated to take legal effect in August 2025 prompts the present paper to carry out a close scrutiny and comparative law assessment of the key regulatory standards to identify its strength and weaknesses in providing a balanced market environment and remain attractive for foreign investments in the domestic digital assets market and services. Firstly, the paper will examine the policy debates leading up to the introduction of the stablecoins regulatory regime and how its evolution was influenced by relevant international regulatory recommendations. The paper will systematically review the newly introduced stablecoins regulatory framework to identify how it seeks to achieve the balance between different stakeholder interests. The paper will then endeavour to carry out a comparative law exercise with reference to two other prominent legal developments governing stablecoins market, namely the pioneering efforts of Singapore as a competing regional financial centre, and the exclusive effort in the United States as the most recent regulatory development passed subsequent to enactment of the Hong Kong regime. The paper will conclude with a discussion of the relevant findings to deduce the

advantage and disadvantage each of these market offers to international stable coins operators and to the consumers. Deriving from various findings, the paper will make relevant recommendations for developing and sustaining a healthy and vibrant stable coins market in Hong Kong SAR.

2.0 INTERNATIONAL REGULATORY STANDARDS ON THE GOVERNANCE OF STABLECOINS AND THE RELEVANCE FOR NATIONAL REGIMES

As in the case of other prominent jurisdictions, Hong Kong was also inspired by the FSB work and recommendations in initiating policy discussion aimed at developing regulatory framework governing crypto assets market. However, the regulatory progress in Hong Kong pertaining to stablecoins could be seen as sluggish given the fact that the first set of relevant recommendations by FSB were issued in 2020 and it took more than four years for Hong Kong to finally bring its efforts to fruition. Moreover, from a comparative perspective, the progress in Hong Kong has been relatively slower than Singapore, which published its finalized regulatory approach on stablecoins in 2023. To determine how much of the policy developments and regulatory standards in Hong Kong has been in lines with international recommendations, it is essential to determine the scope and relevance of the FSB stablecoin recommendations at the very outset. In this regard, it is important to assess the original set of high-level recommendations on stablecoin issued by FSB in 2020 along with its further refinement carried out by the FSB review in 2022-2023.

2.1 The Significance of a Common Frame of Reference of Definitions

As national legal definitions of key terms relating to digital assets and stablecoins tend to differ, it is necessary to insinuate international definition of important terms and use them as a common frame of reference. The assessment and comparison of definition standards adopted by different national regulatory frameworks requires reference to the definitions provided by the FSB as a major institution of inspiration for national initiatives. Reference to FSB definitions should allude to the two versions of the High Legal Recommendations on global stablecoin arrangements (FSB-HLR) made in 2020 and 2023 respectively. The definitions propounded by FSB on three important terms in 2020 namely digital asset, crypto asset and stable coin are crucial to understand the distinction between these closely linked terms as well as individual national efforts in defining them. Among the three essential terms, digital asset is defined by FSB to encompass digital representation of any value used for payment or investment purposes albeit to the exclusion of digital representation of fiat currencies. So digital asset could be understood as an asset representing the value of anything except fiat currencies and to be used fundamentally as an instrument of payment or investment. The ‘digital representation of a value’ and the ‘purposes of use’ are two notable characteristics of the definition. On the other hand, the definition of crypto asset is qualified as a private digital asset using cryptography and distributed ledger or analogous technology. The emphasis on ‘private nature’ and ‘two technological characteristics’ of a crypto asset are the distinct characteristics to note.

Stablecoin is defined as a specific type of crypto asset aspiring to maintain a stable value with reference to either a specific type of asset or a group of assets (FSB Report, 2020). The ‘stable value’ proposition and the ‘linkage to certain asset class(es)’ are the core components emerging from the definition of stablecoin. The FSB defines three specific types of stablecoins namely

asset-linked stable coin, global stablecoin and algorithm-based stablecoin. The definition of ‘asset-linked stablecoin’, enumerates it as a coin that is designed to derive its stability with reference to three specific types of assets namely physical assets, financial assets or other crypto assets. ‘Global stablecoin’ (GSC) is defined in terms its reach and scale with a categorial reference to its potential to transcend multiple jurisdictions and attain substantial volume. An ‘algorithm-based stablecoin’ on the other hand is defined for its characteristic of maintaining a stable value through the adjustment of its supply based on demand using relevant protocols. Finally, FSB also provides a detailed definition of the term ‘stablecoin arrangement’, which signifies any arrangement that combines distinct functions and related activities to enable the usage of an underlying instrument as a means of payment or stored value.

A comparative assessment of the definitions of the core terms in the FSB-HLR 2023 reveals that the number of terms defined have increased considerably with the definition of fifteen new terms added and the definition of one of the terms found in FSB-HLR 2020 dropped. However, what is significant to note is the change in definition of some of the terms originally defined in HLR-GSC 2020. The major change in definition in FSB-HLR 2023 pertains to the fundamental term ‘digital asset’ that forms the basis of the definition of its variations namely crypto-asset and stablecoin. The definition of digital asset in FSB-HLR 2023 has withered its original exclusion of representation of fiat currencies and has added a new type of value representation namely ‘contractual rights’. Under the new FSB definition of 2023, digital asset signifies a digital representation of any type of value or contractual rights to be used still for the original purposes of payment or investment. By virtue of this change, the recognition of digital assets representing fiat currencies and stablecoins linked to fiat currencies by national regimes is made possible. Despite the profound implications, the basic definitions of the terms ‘crypto-asset’ and ‘stablecoin’ in FSB-HLR 2023 remained unchanged. However, conspicuous changes could be identified in the definitions of some specific types of stablecoins (FSB Report, 2023).

Firstly, the FSB-HLR 2023 dropped the apparently superfluous definition of the ‘asset-linked stablecoin’ and introduced a pertinent definition of two new terms namely ‘fiat-referenced stable coin’ and ‘reserve-based stablecoin’.

The definition of fiat-referenced stable coin is characterized by its objective to attain a stable value through fiat currency-based references with a potential use for payment and/or stored value purpose(s). A stablecoin that is reserve based is also defined based on its objective to maintain a stable value using a dedicated pool containing reserve assets. The FSB-HLR 2023 also provides an expanded definition of GSC. The renewed definition of GSC comprehends stablecoins that have an existing or potential reach and use across multiple jurisdictions with the possibility of attaining a systemically important role (including for the purposes of payment and/or stored value) in one or more jurisdictions. It is apparent that the new definition of GSC has relinquished its previous emphasis on the potential to attain ‘volume’ under the FSB-HLR 2020 and replaced it with potential to attain systemic significance including in the sphere of certain specifically mentioned purposes. Finally, other notable new terms that are defined in FSB-HLR 2023 includes various terms related to crypto assets like its issuer, services, service providers, ecosystem, market, activities, and trading platform, as well as a set of broad and functional terms like decentralised finance and protocols, blockchain, smart contract, and various types of wallets.

2.2 Core International Regulatory Standards Influencing the Development of National Stablecoins Regime

Despite being an international instrument issuing non-binding recommendations governing stablecoins that are aimed at reaching and usage across multiple jurisdictions, the utility of the FSB-HLR in inspiring the development of individual national policy and regulatory frameworks should be highlighted based on its specific features and recommendations. Firstly, the specific enumeration of certain fundamental elements essential for the establishment and functioning of stablecoin markets within the purview of the definition of stablecoin arrangement can serve as a useful reference to individual jurisdictions in developing domestic regimes. The definition of stablecoin arrangement systematically identifies various activities, functions, governing mechanism, people and entities involved in stable coin operations, each of which will provide the opportunity for national authorities to identify the set of issues and processes that calls for a regulatory intervention. For example, the range of the activities listed in the stablecoin arrangement like issuing, creating and destroying stable coins, managing and providing services for reserve assets, operating and validating transactions, as well as exchanging, trading and market making of stable coins would enable a systematic identification of various stages where regulations need to be introduced. Similarly, the prescription of the function of the governance body to encompass the establishment and monitoring rules governing stablecoin arrangement addressing issues like types of permitted entities, validating protocols to be used in transactions, and the manner of achieving stabilisation of the issued coins are also useful indicators for designing relevant regulatory bodies and their competences.

Secondly, the individual high-level recommendations emerging from the FSB-HLR 2023 can serve as a major directive for national policy makers and legislators to determine specific fields where regulatory standards need to be created or amended to create and implement a vibrant regime governing the establishment and functioning a stablecoins market. Moreover, the detailed description of each of the recommendation in the FSB Report 2023 will help national authorities to determine on which aspects strict adherence is desirable and on which aspects they could avail a permissible flexibility and customize the relevant recommendations to suit local market conditions and preferences. The crux of the core high level stablecoin recommendations of FSB evidences its unparalleled guidance value for national regulatory authorities. Although the FSB-HLR 2023 are provided with a focus on GSCs, the essence of the recommendations will be pertinent and useful for developing regulatory regimes governing stablecoins market of different types and scope. Therefore, individual recommendations can be examined from the perspective of its general utility in constructing a stablecoin regulatory regime excluding the elements that are exclusively focused on the reach and use of stablecoins in multiple jurisdictions.

The focus of the first FSB-HLR 2023 is aimed at achieving regulatory and supervisory readiness of national authorities, where by two important elements could be derived. The first element is a call for national authorities to possess and utilize pertinent powers, tools and resources to attain their readiness. The second element emphasizes on the regulation, supervision and overseeing (RSO) of the underlying stablecoin arrangement along with its concomitant functions and activities, and the effective enforcement of relevant laws and regulations. The second FSB-HLR 2023 calls upon the national authorities to apply comprehensive and effective RSO requirements meeting international standards to relevant

stable coin arrangements. The recommendation calls upon such RSOs to be imposed on a functional basis and proportional to the risk involved albeit subject to the condition that they are in consonance with relevant mandates. The third FSB-HLR 2023 prescribes cooperation and coordination among relevant authorities to promote efficient and effective communication, consultation and information sharing to support each other's duties, to ensure RSO of relevant stable coin arrangements and to motivate consistency in regulatory and supervisory outcomes. The fourth FSB-HLR 2023 mandates authorities to impose requirements upon relevant stablecoin arrangements to create and disclose a comprehensive 'governance framework', earmarking definitive and direct lines of responsibility and accountability for all related functions and activities arising out of the arrangement.

The fifth FSB-HLR 2023 mandates the authorities to demand relevant stablecoin arrangement to establish effective risk management frameworks to address various material risks arising from its related functions and operations. Specific purposes for which the framework could be prescribed includes attaining operational resilience, safeguarding cybersecurity, introducing Anti-Money Laundering (AML) and Combating the Financing of Terrorism (CFT) measures and determining 'fit and proper' requirements. The sixth FSB-HLR 2023 requires the authorities to impose obligations on relevant stablecoin arrangements to establish robust frameworks, systems and process to collect, store, safeguard and report any relevant data, with the possibility of authorities having access to the data to carry out their respective RSO mandates. The seventh FSB-HLR 2023 mandates authorities to require relevant stablecoin arrangement to establish suitable recovery and resolution plans and plans to support any orderly winding down of operations, continuity of critical functions and activities, and prevention of spillovers upon financial system.

The eighth FSB-HLR 2023 mandates the authorities to require the stablecoin issuers and other participants in any relevant stablecoin arrangement to furnish comprehensive and transparent information about the functioning of the arrangement to all its users and stakeholders. The ninth FSB-HLR 2023 prescribes authorities to require relevant stablecoin arrangement to enable users to make robust legal claims against the issuer and/or relevant reserve assets along with a guarantee to attain redemption in a timely manner. Two other specific requirements stem from this recommendation. Firstly, if the relevant stablecoin is referenced to a single fiat currency, the related redemption should be at par with the relevant fiat. Secondly, authorities should also require the stablecoin arrangements to have stabilisation mechanism, redemption rights and compliance with prudential requirements to maintain the value of the stablecoins and reduce any risks of runs. The tenth and final FSB-HLR 2023 asks the authorities to demand relevant stablecoin arrangements to satisfy all applicable RSO requirements in their respective jurisdictions before the commencement of stablecoin operations there and to comply with any new regulations introduced.

The range of issues the FSB-HLR 2023 seek to address in the governance of stablecoin is very comprehensive and inevitably critical for national regulatory developments. As argued earlier, despite being a set of recommendations aimed at GSCs, its utility in developing regulatory regimes for governance of any type of stablecoins operations including purely domestic non-GSCs market cannot be denied and is well evident from the above analysis. Such a finding is also supported by other key international institutions like the BIS, which argues that the aim of the FSB-HLRs is to promote consistent and effective RSOs of not only GSCs across

jurisdictions, but also stablecoins that have the potential to ultimately attain the status of GSCs in the future (BIS, 2024). Moreover, the BIS underscores the utility of the FSB-HLRs in addressing financial stability risks posed by stablecoins both at domestic and international levels. It also highlights the advantage provided by FSB-HLRs in supporting innovation and providing flexibility in implementation of individual domestic approaches in different jurisdictions.

In addition to the FSB stablecoin regulatory reference, the BIS has also produced consultative outcome, and its final prudential standard focused on addressing crypto assets related prudential challenges facing banking operations (Basel Committee, June 2022) and (Basel Committee, December 2022). These are useful references to determine national regulatory intervention to shield banking operations from related crypto asset risks including stablecoins. The useful set of international guidance on stablecoin arrangements is jointly issued by the Committee on Payment and Market Infrastructure (CPMI) and International Organization of Securities Commissions (IOSCO), which primarily articulates how the principles of financial market infrastructure could be applied to stablecoin arrangements in different jurisdictions. (CPMI & IOSCO, 2022).

Finally, the Fintech Notes on regulating stablecoins and arrangements issued by the International Monetary Fund is also a pertinent reference for national authorities seeking to develop stablecoins regulatory framework. The IMF Fintech Note alludes to five distinct policy objectives and related regulatory considerations for national authorities to address a set of parallel risks that could potentially arise in a crypto ecosystem involving stablecoins. (Parma Bains & et.al, 2022). The five policy objectives aimed at achieving financial stability and integrity, securing operational and cyber resiliency, deriving the potential of stablecoins with effective management of risks and protecting consumer and investor interests will enable national authorities to categorially segment their policy focus and align them with the identified set of parallel risks to introduce relevant regulatory standards using the list of regulatory considerations recommended. Moreover, the IMF notes also highlight the relevance of the FSB and its works for national regulatory authorities. It argues that FSB is well placed in establishing global standards to support national regulation of stablecoins and related arrangements. It emphasizes that national authorities should introduce immediate regulatory actions and related frameworks that are flexible in incorporating internationally coordinated stablecoin standards developed by FSB, especially in the light of the growing systemic implications of crypto assets and stable coins.

3.0 POLICY CONSIDERATIONS AND DEBATES IN THE CONSTRUCTION OF STABLECOIN GOVERNANCE FRAMEWORK IN HONG KONG SAR

After the major FSB initiative in 2020 issuing the FSB-HLR 2020, Hong Kong undertook its major response in 2022 through a discussion paper issued by Hong Kong Monetary Authority (HKMA) focused on crypto assets and stablecoins (HKMA, 2022). The Hong Kong Stablecoin Discussion Paper 2022 (HKSDP 2022) has derived a substantial inspiration from the work of FSB, which is evident from the wide reference made to the FSB definitions and recommendations. At the very outset, the HKSDP 2022 was referring to the development of international standard setting bodies and national financial regulators around the world taking stock of the benefits and risks of crypto assets to call upon the need to make regulatory

initiatives in Hong Kong. It pointed out to the significant increase in market capitalization and increasing investments in crypto assets and its growing nexus with mainstream financial system as some of the major causes to initiative regulatory intervention.

With a broader motivation of the maintaining monetary and financial stability, the HKMA undertook to review the regulatory treatment of crypto assets with a particular emphasis on enhancing public confidence in local payment systems and prioritizing user protection. Based on these objectives, two key areas were earmarked for regulatory focus namely a) Authorized Institutions (AIs) and their crypto assets related exchanges and services with customers and b) review of the adequacy of existing regulatory framework and the required expansion to address challenges related to the use of crypto assets and particularly the stablecoins as its sub-set.

The choice of focus upon stablecoin as the first type of crypto asset to regulate was driven by the expectation that stablecoins will be perceived by the users and market players as the form of crypto asset that will command common acceptance as a means of storing value and making payments due to its pegging nature with an underlying asset and the consequential stability. As a result, HKMA was convinced to focus specifically on ‘payment related stable coins’ as a priority and ensure that they are effectively regulated before being circulated and marketed to the public in Hong Kong SAR. At the same time, non-payment related and unbacked crypto assets were classified as instruments for speculative investments requiring continuous monitoring for the purpose of possible regulatory intervention in the future. However, the HKMA recognized that such class of crypto assets typically face challenges relating to consumer knowledge of underlying risks, user protection and its potential use in illicit money laundering and terrorist financing. HKMA also acknowledged the growing nexus between such ‘unregulated crypto assets’ and the ‘mainstream financial system’ as well as the consequential potential risks that will weigh in on the latter if there is a severe price correction suffered by the former.

Referring to the ongoing efforts initiated by other regulatory authorities namely the Securities and Futures Commission (SFC) involved in the development of a virtual asset trading platform and Financial Services and the Treasury Bureau (FSTB) contemplating a licensing regime, HKMA undertook to monitor related developments and coordinate with other regulatory authorities on the need for regulatory intervention to address any evolving risks arising from non-payment related crypto-assets. HKMA also pointed out the need to maintain close dialogues with other financial regulators and relevant standard setting international institutions to keep up with regulatory developments in the world. It emphasized that a close alignment of the regulatory framework and supervisory approach in Hong Kong with the recommendations of the international bodies is critical for avoiding possible regulatory arbitrage in related activities.

The HKSDP 2022 clearly reveals the preference undertaken by Hong Kong in developing a regulatory regime focusing on payment related stablecoins as a priority over the regulation of any other type of crypto assets. This narrow regulatory mandate could arguably be attributed to various factors including the infancy of the nonpayment/unbacked crypto asset products and markets, the dearth of related regulatory initiatives in other jurisdictions limiting comparative law insights, as well as the selective focus of the emerging international regulatory standards like the FSB-HLR 2020 specifically on stablecoins. Moreover, HKMA itself elaborated the

growing significance of stablecoins and the increasing requirement of its regulation. HKMA argued that the potential use of stablecoins for payment purposes and the resulting prospects of its enhanced role in the mainstream financial system, and in every day commercial and economic activities could cause direct impact on monetary and financial systems. Hence, the choice of prioritizing the preparedness for regulating stable coins, in lines with the related call of FSB on the matter, was justifiable.

HKMA recognized that stablecoins could be further classified into two main categories namely asset based stablecoins and algorithm based stablecoins. While the former is generally linked to specific asset classes like fiat currency or currencies, commodities like precious metals, and other types of financial assets like securities, the latter typically engages specific protocols that seek to maintain a stable value through adjustments of supply based on demand. In addition, HKMA also acknowledged that with the technological feasibility, any stablecoin could gain reach across multiple jurisdictions and hence regulatory coordination to govern such GSCs as recommended by FSB is essential. In 2022, HKMA while initiating the discussion on the need for regulatory preparedness to govern stablecoins in Hong Kong, enumerated the works and recommendations of key international institutions on the subject. The HKMA mainly referred to the contributions made by Basel Committee of BIS, the FSB, CPMI and IOSCO as well as the tangential works of the intergovernmental body Financial Action Task Force (FATF) on stablecoins as part of its focus on virtual assets (VA) and virtual asset service providers (VASP) in 2019 and 2021 respectively (FATF, 2019), (FATF, 2021). In addition, HKMA also referred to the regulatory developments in certain regional jurisdictions like the Peoples Republic of China (PRC) and Singapore and other prominent jurisdictions in the European Union, United Kingdom and the United States of America.

HKMA identified certain regulatory standards already existing in Hong Kong, which are related to some pertinent activities and services like the VASP, payment systems and stored value facilities and distribution of VA related products. However, it concluded that the payment related stable coins may not fall within the purview of those existing regimes and expressed the need to design a separate and new regulatory framework governing stablecoin related activities. For that purpose, HKMA identified that the major risks arising from stable coins warranting regulation includes financial stability risks (affecting payment integrity and banking stability), risks of monetary stability (bearing currency substitution risk and risks related to monetary policy transmission mechanism), settlement risks (affecting finality in settlement), risks related to user protection and financial crime and cyber risks. Additionally, HKMA also emphasized the need to update the domestic regulatory regime to prevent regulatory arbitrage and ensure compliance with relevant internationally agreed standards and best practices to uphold the position of Hong Kong as an international financial centre. Finally, it set three major objectives for the required regulatory intervention namely guaranteeing monetary and financial stability, protecting users and curtailing regulatory arbitrage risks. To determine future policy direction and the scope of the intend regulation, the HKMA sought consultation and feedback involving the industry and public.

Based on the outcome of the consultation major conclusions were reached demarcating the key parameters of the regulatory regime, which will go on to define the future course of legislative action (HKMA 2023). Revealing the intention to introduce a mandatory licensing regime governing stable coins, HKMA confirmed that a risk-based approach will be adopted in

defining the scope of their structure, with a priority to regulate stablecoins linked to one or more fiat currencies. HKMA also enumerated the key activities that will be subjected to regulation, which includes governance, issuance, stabilisation and wallets pertaining to stablecoin operations. The regulation will mandate licensing for any operations carrying out a regulated activity, actively marketing such activity to the public, indulging in such activity in connection with a stablecoin linked to Hong Kong dollar or activities, which in the opinion of the authorities should be regulated as a matter of significant public interest.

The regulatory effort will follow the principle aimed at introducing a comprehensive regulatory framework addressing a whole gamut of issues like including requirements of financial resources, audit and disclosure, risk management, user protection, ownership, governance and anti-money laundering and counter terrorist financing. It also clarified that only stablecoins that have full backing of the reserve assets and able to ensure redemption at par will be permitted and stablecoins that seek to derive their value from arbitrage or algorithm will not be legalized. The principle that the regulated entity should not deviate from its principal business authorized under the license will be enforced. At this stage, although the major aspects of the course of regulatory action were determined, the question of whether the regulatory goals had to be achieved through the introduction of a new legislation or by virtue of amendments to the existing laws remained unanswered. Soon after, however, this dilemma was settled in favour of the former, when the FSTB along with HKMA, in December 2023, made a legislative proposal to implement a regulatory regime governing the issuers and operations of stablecoin (FSTB and HKMA, 2023). It not only exhibited the preference for a new legislation to implement the licensing regime governing the issuance of fiat referenced stablecoins (FRS) but also revealed a renewed set of policy objectives with which it will be implemented.

The articulated policy objectives related to FRS include introduction of safeguards against monetary and financial stability risk, protection of users, conservation of the status of Hong Kong as international financial centre by the introduction of regulatory regime reflecting international standards, and promotion of sustainable and responsible development of the VA ecosystem. For further development of the regulatory regime and the related legislative measures, the proposal undertook to follow the interesting guiding principle of ‘same activity, same risk, same regulation as well as the principles of a risk-based approach, readiness to address emerging market developments and international deliberations, proportionality of regulation reflective of risks, providing level playing field and prevention of regulatory arbitrage. Subsequently, based on the consultation initiated in 2023, the FSTB and HKMA published its responses in July 2024 through its paper enumerating the conclusions arising from the consultation carried out with around 108 respondents (FSTB and HKMA, 2024). The important issues deliberated in this context pertains to the scope and coverage of the key definitions and regulated stable coin activity, the proposed legislative approach, nature of the planned regulatory and licensing framework, custody and offering of FRS, the powers of the authorities to modify the regime, supervisory and investigative powers of HKMA, offences and sanctions relating to stablecoins, and establishment of an appeals tribunal to review related decisions of HKMA. Finally, the consultation conclusion paper affirmed that HKMA will facilitate regulatory compliance by issuing relevant licensing and supervisory guidelines in the future.

4.0 ASSESSMENT OF SPECIFIC STABLECOIN REGULATORY STANDARDS IN HONG KONG SAR

After the conclusions to the consultation on legislative proposal were reached in 2023, Hong Kong SAR drafted a comprehensive Bill on stablecoins, which was successfully passed by Hong Kong Legislative Assembly on 21 May 2025. The resulting Stablecoins Ordinance 2025 is slated to enter into force in August 2025, a closer review of which is needed to assess how the overall legal framework and its salient regulatory standards seek to achieve an effective regulation and balance essential interests in the pioneering legalized stablecoins market in Hong Kong. The 2025 Ordinance provides a very comprehensive legal framework that elaborately prescribes regulations governing various activities and licensing pertaining to stablecoins, distinct functions and investigative powers of the regulatory authorities, related offences and sanctions as well as the avenues of review of specified decisions and judicial appeal. Additionally, the 2025 Ordinance along with addressing certain confidentiality requirements, and miscellaneous issues prescribes a set of eight distinct schedules that specifically governs a range of issues arising from the regulatory framework. The pertinent issues governed under schedules are specified affairs relating to stablecoin activities, minimum criteria applicable to a licensee, licensing fee, license revocation grounds, powers of statutory manager of a licensee, administration and functions of the stablecoin review tribunal, as well as transitional provisions and amendments to other enactments resulting from the introduction of the Ordinance.

A close analysis of a select set of salient regulatory features of the Ordinance reveals how the regulatory deliberations and preparatory efforts since the discussion paper on the matter was first issued by HKMA in 2022 culminated into concrete regulatory standards and the extent to which they balance diverse factors and interests. Such factors and interests could involve various components that may relate to the international recommendations and standards, as well as the domestic policy objectives and preferences systematically examined in the previous sections of this paper. Firstly, regarding the scope of legal definitions of pertinent terms under the Ordinance, it is visible that they are inspired by the international standards but adapted to the local needs and policy preferences. Evidence of such a balance could be demonstrated referring to the definitions of certain key terms under the Ordinance. For example, the fundamental term ‘stablecoin’ is defined by the Ordinance using a two layered approach. Firstly, the definition enumerates what are the essential characteristics of a stablecoin, which arguably is very much in lines with international definitions. However, in the second layer, the definition categorically excludes a prescribed set of digital representation of value that will not constitute a stablecoin, and many of those grounds of exclusions are arguably incorporated to reflect domestic policies and preferences.

In addition, the approach of the Ordinance in incorporating a narrower category of definition of the term ‘specified stablecoin’ and providing a regulatory design that would primarily govern that specific category of stablecoin is another interesting example of the balance. Moreover, the two layered approach of defining the term ‘specified stablecoin’ with a standard set of characteristics first, followed by the recognition of various avenues through which the regulator, HKMA, may further expand the same (through notices published in the official Gazette) can also be seen as balancing the present and future needs of determining the scope of the subject matter to be regulated. In addition, the scope and characteristics of the definition

of some other pertinent terms like ‘regulated stablecoin activity’ and ‘offering specified stablecoin’ could also be argued as indicating the balance sought to be achieved. At the same time, the fact that the term ‘licensed stable’ coin is defined in a more specific and categorical manner makes it difficult to trace any traits of a balancing exercise.

The Stablecoins Ordinance does not purport to define all key terms. Instead, it utilizes the definition of certain terms from other relevant laws in Hong Kong. For example, the Ordinance simply refers to the definition of the terms ‘authorized institution’ and ‘authorized institution incorporated outside Hong Kong’ from the relevant banking legislation in Hong Kong. Similarly, terms like ‘company’ ‘associated company’, and ‘body corporate’ are not defined in the Ordinance and the respective definitions from the relevant company law of Hong Kong are adopted as such. On the other hand, certain other terms like an ‘entity’, ‘controller’, ‘indirect controller’, ‘majority and minority shareholder controllers’, manager, and officer are independently defined under the Ordinance. Interestingly, the term ‘chief executive’ is partially defined independently (in cases where the term relates to a licensee that is not an authorized institution) and partially with reference to existing banking legislation (in cases where the term relates to a licensee that is indeed an authorized institution). These blended approach in definition of terms can also be seen as an attempt to balance between drafting efficiency by simply transplanting terms already well defined in other related legislation and exclusively defining other terms to serve specifically to the needs of the regulatory regime governed by the Ordinance.

Part 2 of the Ordinance prescribing the major regulations of activities pertaining to ‘specified stablecoins’ is divided into two segments namely the ‘restrictions’ imposed upon specified stablecoins related activities and the comprehensive ‘licensing regime’ governing various aspects like licensing process and governing conditions, ownership (controller) and management of licensee, and powers of the regulatory authority over the management of licensee and other provisions imposing control over the licensee. First, it is important to note that the licensing regime prescribed under the Ordinance is limited to the specified stablecoins that at present primarily pertains to those that are fiat referenced involving one or more official currencies, albeit the possibility to encompass specified stablecoins referencing or representing other units of account or economic value or value class in the future. An official currency is defined as the currency issued by the government, central bank, the monetary authority or an authorized note issuing bank in a jurisdiction.

The license to be issued under the Ordinance is essential to carry out any ‘regulated stablecoin activity’, which is defined to include three distinct categories of activities carried out by a person namely a) issuing a specified stablecoin in Hong Kong SAR, b) issuing of a specified stablecoin outside Hong Kong SAR that is wholly or partly referenced to Hong Kong dollar to retain its stable value and c) an activity, which HKMA may in the future specify as a regulated stablecoin activity through official notification . In this approach, we could see the design of the regulation balancing between locally issued and foreign issued stablecoins, as well as the required related referencing to official currencies in general and the Hong Kong dollar in particular comprehending different scenarios of stablecoins issuance. The first two sets of activities that are related to the issuance of fiat referenced specified stablecoins and the third one opening the possibility to expand the scope of activities (which potentially could cover the issuance of new forms of stablecoins referencing to other types of assets) on the bequest of

HKMA can also be seen as a balanced approach in confining to fiat referenced stablecoin activities currently and yet opening the possibility to expand the licensing regime governing other types of stablecoin activities.

Another important set of provisions that evidences a balancing of interests pertains to the balance sought to be achieved by the licensing conditions that could be imposed under the Ordinance. The assessment of the related provisions gives a general impression that the large number of conditions that could be imposed at the time of the grant of a license or added or amended at any time after the grant of a license are predominantly favouring the interest of protecting the integrity and smooth functioning of the licensed activities. Specific types of impossible conditions indicated by the Ordinance like the requirements or restrictions on business activities, requirements of reserve assets, their management and conditions of use, imposition of additional financial resources maintenance, demands to cease or carry on any of the licensed business activities, imposition of requirements or disclosure related to the accounts of the licensee, and restrictions on the maximum value of the licensed specified stablecoins indicates the intention of legislators to strictly safeguard the integrity and functioning of the licensed activities. However, there are some parallel provisions that arguably provide some degree of offsetting effects by offering procedural fairness to the licensee. The imbalance in this context is however understandable and arguably justifiable given the risks and vulnerability facing the broader interest of the market participants including consumers.

The Ordinance mandates the licensee to maintain reserve assets to back up the value of the stablecoin as well as to honour any redemption request from the holder of the coin. This along with various fundamental requirements to be satisfied by a licensee prescribed as the 'minimum criteria' by the Ordinance reveals various standards and safeguards that are inspired by the international recommendations and experiences as well as domestically reinforced elements. A close review reveals how these elements are blended and incorporated in an exclusive schedule to the Ordinance. A licensee under the minimum criteria should first and foremost be a company (as defined in the Hong Kong Company law) or an authorized institution incorporated outside Hong Kong. Secondly, the licensee should have sufficient financial resources and liquid assets, as well as a minimum prescribed paid-up share capital or other HKMA approved financial resources that are equivalent of higher than the prescribed paid-up share capital. Thirdly, in prescribing the reserve assets as part of the minimum criteria, the Ordinance sets out an elaborate array of requirements for the management and control of the assets maintained as a reserve, which clearly evidences the mix of internationally inspired standards and locally conceived elements. Similar characteristics can also be found in case of the redemption guarantees, which the Ordinance demands as part of the minimum criteria a licensee should satisfy.

Another set of intriguing minimum criteria requirements under the Ordinance pertains to need for the licensee to ensure that the key persons involved in the stablecoin operations like the controller of a licensee, chief executive, director, and stablecoin manager are indeed 'fit and the proper person' to hold the position in question. The Ordinance also imposes 'knowledge and experience' requirement upon officers of a licensee, who are involved in everyday management and operations of the licensed stablecoin activities. The prudential and risk management requirements and the measures imposed to prevent money laundering and terrorist

financing as part of the minimum criteria under the Ordinance are predominantly reflection of respective international standards discussed earlier in the paper.

The next notable minimum criteria, albeit being expressed in very general terms, arguably touches the core of the concern that would typically arise in any crypto asset. In this regard, the Ordinance interestingly mandates that the issuance of any specified stablecoin by a licensee should be grounded on prudence and soundness relative to the purpose, business model and operational aspects of the issued coin. The provision should serve as an effective tool for the licensing authority to assess and determine untenable stablecoins at the very beginning and prevent them from being floated in the market. However, lack of prescription of any procedure and parameters to determine the prudence and soundness of a proposed stablecoin could be subjected to criticism as one of the obvious weaknesses of the Ordinance.

Another well balanced provision of the Ordinance that is also prescribed as a minimum criterion is related to the requirement of exclusivity of the activities a licensee should carry out (mandating such activities to be fundamentally focused only on the licensed stablecoin and not on any other business). However, a balance is sought to be achieved, whereby the licensee could seek the consent of HKMA, if it intends to carry out any additional business activity other than the licensed stablecoin activity. Moreover, in this context, the licensee is required to put in place prescribed control systems to balance that the activities of the new business do not create significant risks to the licensed stablecoin activities as well as manage and minimize potential conflict of interests. Similarly, as part of the disclosure requirements in the minimum criteria, the license is required to achieve a balance of interests between its own and the interests of the holders of the issued stablecoins by introducing prescribed risk management policies and procedures and disclosing relevant information to those holders.

Finally, while the remaining minimum criteria mainly alludes to the obligations of the licensee to provide prescribed complaint handling mechanism, to introduce business recovery and continuity in response to any operational disruption, to have control systems to achieve an orderly winding-down and the consequential redemption in an orderly manner, there is also positive prohibition, which prescribes that the licensees should not pay or permit to pay any interest for the specified stablecoins issued by them. In the light of the specific duty to fulfil minimum criteria imposed by the Ordinance, several balancing features emerging from the analysis should serve the interest of the ensuring the stability and security of the stablecoins well and at the same time provide the licensee essential room to manoeuvre in attaining the goals of the stablecoins business.

5.0 CONCLUSION

From the foregoing analysis of the emerging regulatory developments governing cryptocurrency and stablecoins, both at the international and the specific domestic level in Hong Kong, some overall conclusions can be derived. At the very outset, it is quite clear that the nature of the digital asset development and business is clouded with various concerns that calls for a concerted action among relevant international institutions and individual jurisdictions to ensure that the underlying challenges are effectively addressed in a coherent and harmonious manner. This is critical not only for the healthy development of the digital asset markets but also to build sufficient safeguards against potential overflow of financial risks across borders, given the ease of reach of digital assets across the globe. Even if the risks of

global or regional financial risks emanating from any specific digital asset offerings and circulation is minimal at present, national level systemic risks arising from such offerings in individual jurisdictions cannot be ignored and should be shielded against effectively.

As growth, performance and advantages of several specific digital assets are increasingly becoming evident, it is highly improbable that major financial market regulators can continue to turn a blind eye. At this juncture, one of the fundamental policy objectives should be seeking an effective balance between involved interests to fully tap into the benefits offered by digital asset technology and nurture the growth of the resulting products and services. As the analysis of the international and domestic policy debates and regulatory responses in this paper reveal, the preference at present seems to be on a focused approach of choosing the safest form of digital asset to develop relevant regulatory standards. Under such circumstances, it is no wonder that digital assets using crypto and distributed ledger technology, as well as being referenced to an underlying asset clause to prevent huge volatility are the choice of subject matter for the first generation of regulatory initiatives. Among various crypto assets, stablecoins that possess all the above attributes have become the core focus of relevant international standard setting bodies and major global financial centres like Hong Kong SAR.

The analysis of the international initiatives governing stablecoins and the domestic regulatory response in Hong Kong revealed various alignment and distinctions. The analysis focused on the definitions of the core terms and principles highlight the significance of the need to laydown detailed standards internationally, as the subject matter of regulation namely the stablecoins are new phenomenon that were not subjected to specific national regulatory frameworks beforehand. Moreover, the complexity of the technical and financial engineering underlying the development and offering of stablecoins warrants a comprehensive regulatory standard development even spanning to detailed definitions and principles. In this regard, the comparison of the definitions and principles emanating from the recommendations of the FSB and those that form part of the first generation Stablecoins Ordinance in Hong Kong reveal various alignment. At the same time adaptation to local needs in defining and laying down regulatory standards in the new Hong Kong regulatory framework demonstrates the balance sought to be achieved.

Finally, the close analysis of the developments in Hong Kong reveals that both the policy debates preparing toward the development of the regulatory regime, as well as the resulting legal framework reflect the influence from different international efforts. Especially, many of the regulatory standards in the new Stablecoins Ordinance could be related to the specific FSB-HLR 2023 standards as well some other international efforts in this regard like the standards pertaining to anti-money laundering and counter terrorist financing. However, the analysis of a select set of regulatory standards from the new legislative framework of Hong Kong reveals that there are several balancing provisions that are uniquely present. The balances sought to achieved, as the discussions reveal were not so much between international and domestic interests but between the interests of various stakeholders involved in the stablecoin markets and operations. In particular, the keen objective of the regulator in achieving strong financial consumer protection is much visible in various safeguard measures built into the regulations. At the same time, as the analysis revealed sufficient leeway is built into the mechanism that could provide the licensee of the stablecoin activities to foster business goals and promote related interests.

As the focus of Hong Kong regime is much narrower now, namely the licensing of payment related stablecoins, it indicates the cautious approach regulators in Hong Kong would like to take. However, with the high prospects of the success of the emerging regime, which is visible from various findings of this paper, it is a question of time before the motivation to extend the regime to other types of stablecoins will emerge. Moreover, the success of the present regime will also inspire calls for Hong Kong to seek governance and regulation of other types of crypto assets. In anticipation of the rapid developments in different forms of crypto asset offering and the ensuing legalization in other regional markets like Singapore Hong Kong does not have much choice but to keep up with international and regional regulatory developments. In this regard, specific comparative law studies focused on key jurisdictions pioneering regulatory standards governing various forms of crypto-assets and services are highly recommended to ensure continued innovation in developing balanced regulations in Hong Kong SAR.

REFERENCES

- Basel Committee on Banking Supervision (June 2022), “Consultative Document Second Consultation on the Prudential Treatment of Crypto Asset Exposures”, Bank for International Settlements, June 2022, pp.1-35 <https://www.bis.org/bcbs/publ/d533.pdf>
- Basel Committee on Banking Supervision (December 2022), “Prudential Treatment of Crypto Asset Exposures”, Bank for International Settlements, December 2022, pp.32 <https://www.bis.org/bcbs/publ/d545.pdf>
- Bank of International Settlement (BIS) (2024), “Recommendation for Regulation, Supervision and Oversight of Global Stablecoin Arrangement-Executive Summary”, Financial Stability Institute (FSI) Executive Summaries, 29 February 2024 https://www.bis.org/fsi/fsisummaries/global_stablecoins.htm
- Committee on Payments and Market Infrastructures (CPMI) and Board of the International Organization of Securities Commissions (IOSCO) (2022), “Application of the Principles for Financial Market Infrastructures to stablecoin arrangements” July 2022, pp.1-24, <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD707.pdf>
- Financial Action Task Force (FATF) (2019), “Money Laundering Risks from ‘Stablecoins’ and other Emerging Assets”, 18 October 2019 <https://www.fatf-gafi.org/en/publications/Fatfgeneral/Statement-virtual-assets-global-stablecoins.htm>
- Financial Action Task Force (FATF) (2021), “Updated Guidance for a Risk-Based Approach: Virtual Assets and Virtual Asset Service Providers”, October 2021, pp.109 <https://www.fatf-gafi.org/content/dam/fatf-gafi/guidance/Updated-Guidance-VA-VASP.pdf>
- Financial Services and the Treasury Bureau (FSTB) and Hong Kong Monetary Authority (HKMA) (2023), “Legislative Proposal to Implement the Regulatory Regime for Stablecoin Issuers in Hong Kong”, Consultation Paper, December 2023, pp. 30

Financial Services and the Treasury Bureau (FSTB) and Hong Kong Monetary Authority (HKMA) (2024), "Consultation Conclusions: Legislative Proposal to Implement the Regulatory Regime for Stablecoin Issuers in Hong Kong", July 2024, pp. 32

Financial Stability Board (2020), "Regulation, Supervision and Oversight of Global Stablecoin Arrangements: Final Report and High-Level Recommendations", 13 October 2020, pp. 1-69.

Financial Stability Board (2023), "High-Level Recommendations for the Regulation, Supervision and Oversight of Global Stablecoin Arrangements: Final Report", 17 July 2023, pp. 1-20.

Hong Kong Monetary Authority (HKMA) (2022), "Discussion Paper on Crypto Assets and Stablecoins", January 2022, pp.34.

Hong Kong Monetary Authority (HKMA) (2023), "Conclusion of Discussion Paper on Crypto Assets and Stablecoins", January 2023, pp.36.

Bains, Parma, Arif Ismail, Fabiana Melo, and Nobu Yasu Sugimoto (2022), "Regulating the Crypto Ecosystem: The Case of Stablecoins and Arrangements", IMF Fintech Notes, September 2022, pp.43.