SFC statement on the end of non-contravention period for virtual asset trading platforms

28 May 2024

1.  The Securities and Futures Commission (SFC) wishes to remind the public that the non-contravention period for virtual asset trading platforms (VATPs) operating in Hong Kong under the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (Cap 615) (AMLO) will come to an end on 1 June 2024. All VATPs operating in Hong Kong must be either licensed by the SFC, or “deemed-to-be-licensed” VATP applicants (Note 1) under the AMLO. It is a criminal offence to operate a VATP in Hong Kong in breach of the AMLO, and the SFC will take all appropriate actions against any breaches of the law.

*Reminder for investors*

2.  Investors are urged to trade virtual assets ONLY on SFC-licensed VATPs. They should check the “[*List of licensed virtual asset trading platforms*](https://www.sfc.hk/en/Welcome-to-the-Fintech-Contact-Point/Virtual-assets/Virtual-asset-trading-platforms-operators/Lists-of-virtual-asset-trading-platforms)” on the SFC’s website to ascertain whether the VATP they are dealing with is formally licensed by the SFC.

3.  In addition, investors are reminded that deemed-to-be-licensed VATP applicants are NOT formally licensed by the SFC (Note 2). These applicants have been operating in Hong Kong since before the new VATP licensing regime under the AMLO. While they have undertaken to enhance their policies, procedures, systems and controls to comply with the SFC’s regulatory requirements, they still need to demonstrate the actual implementation and effectiveness of these measures to the SFC’s satisfaction (Note 3).

*Reminder for deemed-to-be-licensed VATP applicants*

4.  Deemed-to-be-licensed VATP applicants (and their ultimate owners) must fully comply with all of the SFC’s regulatory requirements and licensing conditions. The SFC does not expect these applicants to actively market their services or onboard new retail clients prior to demonstrating the actual implementation and effectiveness of their policies, procedures, systems and controls to the satisfaction of the SFC and being formally licensed.

5.  The SFC also reminds all VATPs and their ultimate owners to comply with all applicable laws and regulations, including but without limitation, preventing Mainland Chinese residents from accessing any of their virtual asset-related services, and to take all necessary measures to procure the VATPs’ controlling entities and related parties to do the same.

6.  The deeming arrangement serves to strike a balance between protecting investors and facilitating market development. As such, it is only a temporary arrangement whereby any non-compliance with key regulatory requirements for investor protection will result in the SFC’s swift refusal of the licence application of a deemed-to-be-licensed applicant (Note 4).

7.  In the coming months, whilst the deemed-to-be-licensed VATP applicants pursue their applications, the SFC will conduct on-site inspections to ascertain their compliance with the SFC’s regulatory requirements, with a particular focus on their safeguarding of client assets and know-your-client processes. By so doing, the SFC aims to safeguard investor interests whilst the inspection findings will feed into the licence application process (Note 5). Again, in case of any non-compliance with key regulatory requirements for investor protection noted from the inspections, the SFC will swiftly refuse these licence applications and take other regulatory actions as appropriate.

Notes:

1. Under the AMLO, any person who carries on a business of providing a virtual asset service (ie, operating a virtual asset exchange) in Hong Kong, or holds itself out as carrying on such a business, is required to apply for a licence from the SFC. VATPs which were carrying on a business in Hong Kong of providing a virtual asset service before 1 June 2023 (pre-existing VATP) may continue to provide such services in Hong Kong from 1 June 2024 without breaching the licensing requirements, provided that such VATPs are deemed-to-be-licensed applicants under the AMLO. To be eligible for such a deeming arrangement, a pre-existing VATP must meet certain deeming conditions and confirm that it can fully comply with the SFC’s regulatory requirements. For more details, please refer to the SFC’s [Circular](https://apps.sfc.hk/edistributionWeb/gateway/EN/circular/doc?refNo=23EC27) on transitional arrangements of the new licensing regime for virtual asset trading platforms issued on 31 May 2023.
2. The public should be aware that deemed-to-be-licensed VATP applicants are NOTlicensed by the SFC and may NOT eventually be granted formal licences as the SFC may return or refuse their applications. In such cases, the VATPs concerned will be required to close down their businesses in Hong Kong and the SFC may place their names on the "[*List of closing-down virtual asset trading platforms*](https://www.sfc.hk/en/Welcome-to-the-Fintech-Contact-Point/Virtual-assets/Virtual-asset-trading-platforms-operators/Lists-of-virtual-asset-trading-platforms)”. Thus, investors should also check this list from time to time.
3. Deemed-to-be-licensed VATP applicants are required to engage external assessor(s) who is/are sufficiently qualified to the SFC’s satisfaction to conduct an assessment of the full implementation and effectiveness of their policies, procedures, systems and controls. The scope of the external assessment report is set out in the [Scope of External Assessment Reports](https://www.sfc.hk/-/media/EN/files/LIC/Fintech/Scope-of-External-Assessment-ReportsJune-2023-EN.pdf?rev=7faaba6cd7f84f96806588b03dc86cad&hash=C7C407B725E545E7637F80BD4B5BE4F1) issued by the SFC in June 2023.
4. Where an application of a deemed-to-be-licensed VATP applicant is refused, the SFC will request the VATP to submit a plan to ensure the orderly winding down of its business in Hong Kong, with a particular emphasis on safeguarding client interests.
5. Deemed-to-be-licensed VATP applicants are subject to the full suite of the SFC’s supervisory, disciplinary, intervention and other applicable powers.

https://apps.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=24PR95