

Comprehensive legislation on virtual assets is urgently needed

At 5:00 p.m. on 6 November, the SFC issued the "warning on virtual asset futures contracts" (hereinafter referred to as the "warning") and the "position note: monitoring virtual asset trading platforms" (hereinafter referred to as the "position note"). In a keynote speech at Hong Kong fintech week conference, the chief executive of SFC, David Alder, said the virtual asset industry would be fully regulated. "The challenge is how to implement investor protections and provide useful and detailed guidance on innovative technologies in a rapidly changing environment," he added.

The new rules apply to virtual assets traded and operated in Hong Kong, including at least one central virtual assets exchange platform for securities tokens. The SFC said it would not regulate bitcoin, but only supervise exchange securities token platforms. Bitcoin and other common cryptocurrencies are not securities.

Once licensed, operators of virtual asset trading platforms will be placed in a sandbox supervised by the CSRC. This will mean more frequent reporting, being monitored and being reviewed, which will allow the SFC to highlight areas where internal monitoring and risk management by

operators should be improved.If you operate a virtual assets exchange in Hong Kong and offer to trade at least one security token on its platform, you will fall under the jurisdiction of the SFC and will be required to have plates no. 1 and no. 7.

The SFC requires platform operators to ensure that 98 percent of customers' virtual assets are stored in offline wallets, and limit the number of customers' virtual assets held in online wallets to no more than 2 percent.The SFC stipulates that platform operators can only provide their services to professional investors.

I think it's a position paper, but it's a document that covers everything,which even supervise the hard fork or airdrop of virtual assets.It can be said that although the new regulation is derived from the regulatory experience of traditional transactions,but it has made adaptive adjustment and update for the new asset form of "virtual assets", and has detailed requirements on fund trust, platform transaction, insurance, anti-money laundering, KYC and other aspects.

The introduction of the document has three meanings

Firstly, protecting investors. Hong Kong is a market dominated by institutional investors and the SFC must ensure that platform operators provide services only to sufficiently professional investors. And all licensed platforms must insure against the loss or theft of virtual assets, which can be very expensive.

Secondly, we are open to the benefits of innovation. Virtual assets have begun to enter the traditional financial market, and most of them are also included in the scope of existing securities regulation. One example is bitcoin futures, which are now being offered by famous American exchanges.

Thirdly, the urgency of industry regulation. Cryptocurrency exchanges have proliferated to dozens in Hong Kong, but so far there has been no regulation of any kind, as most virtual assets fall outside the legal definition of "securities" or "futures contracts". The SFC knows that even without regulation, some exchanges have a lot of money to invest. For the big existing exchanges, it is a once-in-a-lifetime legal opportunity.

Indirect recognition of token financing

The SFC's move shows that Hong Kong has indirectly acknowledged the method of securities token financing, encouraging the development of digital asset exchange and STO. For exchanges, there can't have fluke mind about evading regulation. To date, no organisation has been licensed or authorised by the SFC to sell or trade futures contracts on virtual assets in Hong Kong. In view of the risks involved in these contracts, it is unlikely that the SFC will grant licences or authorisations for the operation of these contracts in order to protect investors.

If any trading platform in Hong Kong or the people in the case of did not get a proper license or approval to sell virtual assets futures contract or futures contract is virtual assets provide trading services, or both in violation of the securities and futures ordinance (chapter 571), or the gambling ordinance (chapter 148), could be prosecuted, and even criminal sanctions.

At present, there are many leveraged digital currency contract exchanges around the world. Licensed physical delivery, such as Bakkt; With a licensed index, such as CME; More are unlicensed. There are also physical deliveries, such as Coinflex; There are fry index, such as bitMex. The man of insight such as BitMex exited the Hong Kong market in April this year.

According to the position book, this is a temporary measure. The rapid development of virtual assets field urgently needs new and comprehensive legislation. That is to say, the current situation force the relevant laws to adjust. Hong Kpng as a mature capital market, the revision of laws and regulations in Hong Kong is of reference significance to China mainland.