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Crypto landscapes in China and Hong Kong

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Abstract: This paper examines the legal and regulatory treatment of crypto-assets in China and Hong Kong, challenging the common perception of a strict ban in China and a permissive regime in Hong Kong. While the two jurisdictions adopt different approaches, both reject the decentralised ethos of crypto-assets and prioritise financial stability, monetary sovereignty and state control. In China, a complex framework of administrative notices—particularly those issued in 2021 and 2026—effectively prohibits most crypto-related activities while leaving limited space for private ownership. The legal status of crypto-assets remains inconsistent, especially across contract, property and criminal law. At the same time, China is promoting its central bank digital currency, the e-CNY, as a state-controlled alternative. In contrast, Hong Kong recognises crypto-assets as property and regulates them through existing financial frameworks under a technology-neutral approach. Its dual-licensing regime and stablecoin regulations provide greater clarity but remain cautious and highly centralised. Despite their differences, both jurisdictions ultimately subordinate crypto innovation to regulatory control and broader policy objectives.

Keywords: *central bank digital currency (CBDC), crypto-assets, cryptocurrency regulation, e-CNY, financial regulation, monetary sovereignty, stablecoins, virtual assets*

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1. Introduction

At first glance—and from a distance—the situations in China and Hong Kong appear straightforward. One is known for its notoriously hostile attitude towards crypto-assets, while the other is often portrayed as an innovation-driven, open and crypto-friendly hub. When examined up close, the picture becomes more complex. China's ban on crypto-assets is not absolute, and Hong Kong's regulatory framework is much less crypto-friendly and open than commonly assumed. Neither jurisdiction subscribes to the early crypto-narrative, which promised various forms of decentralised 'crypto revolutions' and a general disruption of old financial structures. Both adopt an extremely careful, deliberate and *centralised* approach to all activities pertaining to the creation, transfer or even private use of crypto-assets. Yet they also take dramatically opposing approaches to not only the regulation but the very legitimacy of crypto-assets.

It must be borne in mind that the People's Republic of China and the Hong Kong Special Administrative Region operate under different legal and regulatory regimes. In broad strokes, even though Hong Kong and China are one country, they retain "two markets, two monetary systems and two responsible monetary authorities" (Arner, Gibson and Barberis, 2020, pp. 431–453), each relying on different legal and regulatory frameworks for their respective markets.[1] Each must be regarded as a discrete jurisdiction and discussed separately. China operates a unitary civil-law system with the Party-state adopting a prohibitive stance towards crypto-assets while promoting a state-issued central bank digital currency (CBDC), the digital yuan (e-CNY). Hong Kong, governed under China's 'One country, two systems' constitutional principle, enjoys a considerable degree of autonomy, particularly with regard to financial and economic regulation (Arner, 2016). Hong Kong continues to operate under a common-law system inherited from the United Kingdom and retains many laws established during British rule. Despite China's crackdown on all activities related to cryptocurrencies, Hong Kong has developed a more permissive approach, one that is directly linked to its status as an international financial hub and, to complicate matters, a testing ground for Chinese projects relating to crypto-assets.

1 The 'One country, two systems' principle provides a constitutional guarantee of 50 years during which Hong Kong is to retain its capitalist system and financial regulations; see *Basic Law (Hong Kong) 1990*, Special Administrative Region of the People's Republic of China, Article 5; *Constitution (People's Republic of China) 1982*, Article 31.

It must also be borne in mind that the legal and regulatory environment in both jurisdictions is still evolving, with frequent adjustments being driven by broader policy considerations and changing market demand. Consequently, writing papers on this topic resembles catching a moving train or providing snapshots of a constantly changing landscape.

Owing to space constraints, it is impossible to fully describe the legal and regulatory landscape in either China or Hong Kong or to fully explore all intricacies or legal problems created by cryptocurrencies in either jurisdiction. Instead of discussing (or citing!) specific legal instruments or repeating popular clichés, this paper aims to provide a general overview that captures the most important legal and regulatory aspects pertaining to crypto-assets in both jurisdictions. The discussion commences with a broad discussion of crypto-assets in China. It distinguishes between questions of civil law and those of criminal law, both of which are directly affected by administrative developments and policy announcements. Crucially, it must be remembered that the Chinese landscape consists of a complex, multi-layered system of various legal instruments, where *administrative* announcements may significantly affect court decisions in *private*-law matters. Moreover, the relevant instruments often refer to broader concepts, such as ‘public order’ or ‘good morals’, which renders it difficult to predict their interpretation in concrete cases and also to formulate more general statements of principle. More importantly, it may even be difficult to pinpoint a single legal source governing a specific issue.

The paper proceeds with a discussion of the regulatory framework underpinning the e-CNY. Again, the description of their legal and regulatory landscape is complicated by the inability to point to a single legal instrument regulating their use. Next, this paper discusses the legal and regulatory landscape of crypto-assets in Hong Kong. Here, the framework is much clearer and easier to describe. In essence, the private-law solutions resemble those in other common-law jurisdictions, while the regulatory instruments concerning crypto-assets are easy to identify and follow well-known principles, such as ‘same activity, same risks, same regulation’.

An explanation of the terminological convention is in order. While it is common to speak of ‘cryptocurrencies’ and ‘crypto-assets’, both China and Hong Kong seem to favour the broader terms ‘virtual currency’ and ‘virtual asset’ (VA), which includes—and is often synonymous with—crypto-assets. Unless the context requires otherwise, the terms ‘crypto-asset’ and ‘virtual asset’ will be used interchangeably.

2. Virtual assets in China

In China, crypto-assets are governed by administrative notices, circulars and pilot programs. The text of these instruments is often difficult to interpret, and their practical implications may be difficult to evaluate, especially by someone who is not physically immersed in this jurisdiction. Even official translations may not provide a complete picture. As shown below, China's approach to the legal status and regulation of crypto-assets must be extracted from a rich tapestry of overlapping and constantly changing instruments from different levels of China's administrative and legal apparatus. It must also be noted that when it comes to the private-law aspects of crypto-assets, court decisions addressing their use or legal status do not contain extensive explanations of the underlying reasoning or even detailed descriptions of facts.

The watershed moment and, arguably, the bright dividing line for crypto-asset regulation in China occurred in 2021. On 21 September 2021, the People's Bank of China (PBOC), China's central bank, published a legally binding *Notice on further preventing and disposing of the risks of speculative trading in virtual currencies* (People's Bank of China, 2021), which declared all cryptocurrency transactions illegal (Xi, 2022; Alekseenko, 2022, p. 371). As a result, China became the first major economy to severely restrict the use of cryptocurrencies (Xi, 2022, p. 341). Some details deserve to be emphasised. According to the 2021 *Notice*, cryptocurrencies did not enjoy "the same legal status [as] fiat currencies" (People's Bank of China, 2021, Section 1(1)) and did not amount to legal tender as they were issued by "nonmonetary authorities" and used "encryption technologies and decentralised ledger or similar technologies", and existed "in digital form" (People's Bank of China, 2021, Section 1(1)). The broad definition used in the 2021 *Notice* encompassed "traditional" cryptocurrencies such as Bitcoin and Ethereum, stablecoins as well as any tokens with the aforementioned characteristics (Xi, 2022, pp. 342–343). As described by Xi, the 2021 *Notice* constituted a categorical denial of any role for cryptocurrencies in the Chinese economy and effectively outlawed cryptocurrency business transactions and related services (Xi, 2022, p. 344). In essence, "cryptocurrency-related business activities" became illicit financial activities (People's Bank of China, 2021, Section 1(2)). The non-inclusive list of such prohibited activities included exchange services between fiat currencies and cryptocurrencies, exchange services between one or more forms of cryptocurrency, trading cryptocurrencies in the capacity of a central counterparty, the provision of information, intermediation and pricing services pertaining to trade in cryptocurrencies, fundraising via ICOs and trade in cryptocurrency derivatives. The 2021 *Notice* also contained an extraterritorial element: it was illegal for overseas crypto exchanges to provide crypto-asset-related services to Chinese residents through the internet (People's Bank of China, 2021, Section 1(3)). The prohibition was enforced "through" the jurisdiction over the employees of mainland-based exchanges and the onshore providers of their services (e.g., those providing advertising and marketing services or facilitating payment and settlement) (Xi, 2022, p. 348).

The prohibitions in the 2021 *Notice* may seem absolute, but it is important to acknowledge that they were regulatory in nature and mainly targeted providers of crypto-asset *services* (i.e., intermediaries like exchanges or brokers) but not necessarily individual users or investors. Moreover, in drafting the above paragraphs, it proved challenging to determine the appropriate tense, as the prohibitions introduced by the 2021 *Notice* remain in force in practice; yet, from a technical standpoint, they should be described in the past tense, given that the instrument has since been repealed and replaced. In February 2026, the People's Bank of China, together with several regulators, issued a *Notice on further preventing and handling risks related to virtual currencies and other relevant matters* (People's Bank of China, 2026). The 2026 *Notice* largely repeats the wording of the 2021 *Notice* but refines the definitions of VAs,[2] expressly prohibits the tokenisation of real-world assets (RWAs) and addresses some questions of criminal liability.

Like its 2021 predecessor, the document confirms that VAs do not constitute legal tender and that any civil juristic acts (e.g., contracts) involving investments in virtual currencies, real-world asset tokens or related financial products that offend public order or good morals are invalid (People's Bank of China, 2026, para. 19). Moreover, in some situations, parties engaging in various activities pertaining to crypto-assets may expose themselves to potential criminal liability. The 2026 *Notice* also continues the broad restrictions on businesses providing services to entities engaging in activities *related* to VAs. For example, financial institutions, including non-bank payment institutions, may not provide account opening, fund transfer,

[2] Since China did not have a full regulatory system of virtual assets but just wished to ban all related transactions, there was no detailed definition of the concept 'virtual asset', 'virtual currency' or 'token'. The 2021 *Notice*, as well as the preceding notices, seemed to encompass only 'virtual currencies' (虚拟货币), rather than the broader term 'virtual assets' (虚拟资产). This underinclusive definition did not include other types of virtual assets such as NFT, stablecoins or tokens representing real world assets. The 2026 *Notice* remedies this problem by providing broader definitions.

custody, clearing, settlement, insurance, collateral or distribution services for prohibited crypto activities and may not support unapproved RWA-tokenisation business (People's Bank of China, 2026, para. 6). Similarly, intermediaries and technology service providers are barred from supporting unapproved RWA tokenisation, while internet companies may not provide online business premises (i.e., websites), promotional displays, marketing or paid traffic services for crypto or RWA businesses (People's Bank of China, 2026, para. 7). Regulators are also instructed to preclude the registration of businesses with designations containing terms such as 'virtual currency', 'crypto-asset', 'stablecoin', or 'RWA' (People's Bank of China, 2026, para. 8).

Regrettably, the 2026 *Notice* does not lend itself to easy interpretation. The fact that a particular activity is illegal and hence *prohibited* may seem straightforward, yet the exact consequences of such a general prohibition may not be immediately apparent, especially when it comes to the potential criminal liability of those who engage in such activity. While illegality generally leads to a transaction being void and renders the underlying contract unenforceable, it does not automatically imply criminal consequences.

2.1 Contract law

For a considerable time, it remained unclear whether cryptocurrency transactions *per se*, such as peer-to-peer or private exchanges of BTC, were valid and enforceable under the PRC contract law. In fact, contrary to popular assumptions, the legal landscape was not dominated by criminal cases but by contract disputes. As described by Alekseenko (2022, p. 374), from 2014 to 2022, Chinese courts adjudicated 2,968 cryptocurrency-related cases, 54% of which were civil and concerned contracts.[3] Prior to the 2021 *Notice*, the decisions of Chinese courts were, however, somewhat inconsistent. Some courts expressly denied the legal validity of contracts involving crypto-assets and refused to grant any form of relief.[4] Because cryptocurrency transactions were not legal, those who acquired (or attempted to acquire) them had to

[3] Since 2021, the number of civil cases decreased by 18% and criminal cases by 26.6%, possibly because of the successful implementation of the 2021 *Notice* (see Alekseenko, 2022, p. 373).

[4] See 'Jinchen v. Beijing Huobi Tianxia Network Technology Co., Ltd.' (2019), where a trader on Huobi sued the exchange for his loss of 123,424.78911 Tether tokens (USDT). Both the court of first instance as well as the appellate court rejected his claim on the basis that the loss did not relate to "lawful rights and interests deriving from lawful transactions" and that legal protection cannot be granted to "illegal rights and interests". Similarly, in 'Jinan Kaige Network Technology Co., Ltd. v. Sun Chenghao' (2019), the sale of five bitcoins was held illegal and the agreement itself void (as cited in Xi, 2022, pp. 348–350).

bear the accompanying risks.[5] For example, if an investor did not receive the promised profits and asked for their recovery, their claim would not be satisfied because they derived from illegal activities and were not protected. Similarly, if anyone attempted to buy crypto-assets and transferred the requested amount of fiat currency to the seller, but the seller failed to transfer the crypto-assets to the buyer, the latter had no recourse. Although individuals were implicitly permitted to own cryptocurrencies, courts would generally refuse to satisfy their claims towards cryptocurrency exchanges, speculators and sellers.[6] This reflected a broader and continuing trend to discourage citizens from all cryptocurrency investments. However, other courts have taken a more permissive approach and regarded cryptocurrencies as 'objects of transactions' under general PRC contract law.[7] For example, some courts regarded investment in cryptocurrencies as a 'private matter',[8] while others emphasised that laws and administrative regulations do not prohibit cryptocurrencies from being purchased or held by individual citizens as commodities.[9] Some courts even recognised the claim to receive cryptocurrency as payment for work provided. In June 2020, the award in the case concerning a contract dispute stated that while investing or trading in cryptocurrency was not protected by law, bitcoins obtained in the process of a legal job are virtual goods which shall be transferred to a person, so that the contractual obligations were valid, legally binding and protected (Shandong Provincial High Court, 2021).

At the same time, it must be acknowledged that many of the more "crypto-friendly" decisions were made before the 2021 *Notice* and followed the less restrictive 2017 *Circular* which only prohibited the exchange of cryptocurrencies for fiat currencies but implicitly permitted their possession (Xi, 2022, p. 348). The regime established by the 2021 and 2026 *Notices*

5 The Second Instance Civil Ruling of Zhang Yifang and Liang Wen over entrusted contract dispute [张也芳与梁文委托合同纠纷二审民事裁定书] (2020). The ruling is available at the official website of PRC courts https://wenshu.court.gov.cn/website/wenshu/181010CARHS5BS3C/index.html?, requires log in and an account created using your phone number.

6 The Second Instance Civil Ruling of Wukong Chunqin, Chen Qianli and others over contract dispute [藹春勤、陈前礼等合同纠纷民事二审民事裁定书] (2021) (Gui 03) Civil Final No. 2004. The ruling is available at the official website of PRC courts; see also Alekseenko (2022, p. 375, no. 9).

7 'Feng Yiran v. Beijing Lekuda Network Technology Co., Ltd.' (2018a), affirmed by the appellate court in 'Feng Yiran v. Beijing Lekuda Network Technology Co., Ltd.' (2018b); see also 'Chen v. A Communication Technology Co., Ltd. of Zhejiang Province' (2018).

8 See note 6.

9 The Second Instance Civil Ruling of Wang Yalei, Wu Lijie over sale and purchase contract dispute [摭雅磊、吴丽杰买卖合同纠纷民事二审民事判决书] (2021) (Gui 06) Civil Final No. 1365. The ruling is available at the official website of PRC courts.

is more restrictive and, as indicated, regards any contract pertaining to transactions or investments in virtual currencies as null and void where such acts violate “public order and good morals”.[10] Consequently, any loss arising from such transactions must be borne by the parties themselves.[11] Chinese courts have relied on this principle not only to invalidate contracts involving the investment virtual currencies but also contracts for the development of cryptocurrency mining software.[12] The development of a cryptocurrency mining software was, after all, an illegal financial activity that would “affect public interests” and hence “offend public orders or good morals”.[13] It must be kept in mind that the principles derived from the 2021 and 2026 Notices exist *in addition* to a broader prohibition under Chinese contract law, which states that contracts are invalid if they “affect national security, such as political security, economic security.”[14] A strict interpretation of the 2026 *Notice* might indicate that contracts pertaining to virtual currencies are invalidated *only if* they violate “public order and good morals”, but are otherwise fully enforceable, unless they also contravene the aforementioned principle of contract law—that is, affect economic security. While such open-textured qualifiers (e.g., “good faith”) are not uncommon in civil law jurisdictions,[15] they are not self-defining and introduce a certain degree of legal uncertainty.

[10] The principle of ‘public order and good morals’ is enshrined in the PRC *Civil Code*, Article 8 of which stipulates that no “civil acts” shall violate public order or good morals. Article 153(2) of the *Civil Code* further provides that any civil acts violating public order or good morals are null and void. There is no statutory definition of the principle of ‘public order and good morals’ (2026 *Notice*, para 19; Xi, 2022, p. 351, no. 5).

[11] For example, (Yu) Civil Petition No. 8863 [豫民申8863号], No. 8992 [粤民申8992号] and No. 9448 [豫民申9448号] (2025). All petitions are available at the official website of PRC courts.

[12] See the Supreme People’s Court 2022 intellectual property civil case [最高法知民1581], available at the official website of PRC courts. Note that even though the case was decided in 2022, the standard for deciding individual legal liability in the 2026 *Notice* (Part VI, para. 19) is identical to that in the 2021 *Notice*.

[13] According to Supreme People’s Court (2023, Article 17(2)), a contract offends public order if it affects public interests.

[14] See the *Civil Code (People’s Republic of China) 2021* for examples of acts that offend public order or good morals; Supreme People’s Court (2023), promulgated on 23 May 2023, enacted on 5 December 2023; for cryptocurrencies, see specifically Article 17 (2): “Even if a contract does not violate the mandatory provisions of laws or administrative regulations, the people’s court shall, in accordance with Article 153(2) of the Civil Code, determine that the contract is invalid if any of the following circumstances exists: (1) The contract affects national security, such as political security, economic security, or military security; (2) The contract violates (offends) public order by affecting social stability, fair competition, or public interests; (3) The contract violates (offends) good customs by departing from social morality, family ethics, or by harming human dignity.”

[15] See, e.g., the German *Civil Code* (BGB), which contains many open-textured or vague qualifiers such as reasonableness, compelling reason, common decency or undue delay.

2.2 The property/criminal interface

A peculiar situation exists in the context of property and criminal law. On the one hand, although the possession of crypto-assets does not constitute a criminal offence (Wang and Yang, 2023), Chinese courts generally refuse to protect the ownership of cryptocurrencies. On the other hand, they have treated crypto-assets as property in order to apply criminal law! A recent case provides a perfect illustration of this inconsistent approach.[16] From September 2020 to March 2023, a group of defendants using overseas social media applications, such as Tinder and Telegram, created false identities to impersonate women and lure European men into romantic relationships. The victims were induced to purchase a new and *non-existent* cryptocurrency offered on a fake investment website that had previously been set up by the defendants. In total, the victims lost about USDT 44,0730 (Tether). The defendants were accused, among other things, of fraud and "assisting in information network criminal activities". Interestingly, the criminal charges were unrelated to the fact that the fraudulent activities involved cryptocurrencies but focused on impersonation and the operation of a fake investment website. Nonetheless, the court was compelled to treat the USDT as property to apply the relevant sections of the *Criminal Law*. After all, crimes such as theft or financial fraud require the act of "unlawful appropriation of private property".[17]

2.3 Illegal or criminal?

The 2026 *Notice* broadly declares that "virtual currency-related business activities constitute illegal financial activities" (People's Bank of China, 2026, para. 1). Examples of such activities are the exchange of fiat currency for virtual currencies, the issuance of tokens through initial coin offerings and the provision of information intermediation or pricing services for virtual currency transactions. Such activities are "strictly prohibited and shall be resolutely banned in accordance with the law" (People's Bank of China, 2026, para. 1). Similarly, the tokenisation of RWAs,[18] the trading of tokens

[16] Criminal appeal (Liao 03) final No. 293 [辽03刑终293号] (2024), available at the official website of PRC courts https://wenshu.court.gov.cn/website/wenshu/181010CARHS5BS3C/index.html?.

[17] The main focus of the case was on Article 266 of the *Criminal Law (People's Republic of China) 2021*, which commences with the words "Whoever obtains public or *private property* by fraud".

[18] Real-world asset tokenisation refers to the use of cryptographic techniques and distributed ledger or similar technologies to convert asset ownership rights, income rights and the like into tokens (pass-through instruments) or other rights, bond certificates with token (pass-through) characteristics, and to engage in issuance and trading thereof (see Supreme People's Court, 2026, para. 2).

representing such assets as well as related intermediary and technical services are regarded as *prohibited illegal financial activity*, except where the competent authority has approved the activity and it is conducted through designated financial infrastructure. Two points deserve emphasising here. First, adopting a literal reading of the 2026 *Notice*, the broad proclamation that an activity is illegal and prohibited seems somewhat diluted by the addition of “accordance with the law”. Is the 2026 *Notice the* law, or is there another instrument that it refers to? The problem may lie in the imperfect translation, which implies that the ban is not absolute or automatic. For example, a possible translation of the relevant section states that the person must only be “suspected of” illegal issuance of token certificates, etc., which are prohibited (People’s Bank of China, 2026, para. 2). Second, the 2026 *Notice* does not impose a total ban on all RWA tokenisation but only prohibits *unauthorised* RWA tokenisation within the PRC. The 2026 *Notice* permits a narrow, approval-based category of tokenised structures, particularly offshore issuances backed by onshore rights and subject to regulatory consent, filing and infrastructure requirements. It is speculated that this “carve-out” paves the way for a yuan-backed stablecoin to be issued in Hong Kong, which could enhance the liquidity (and popularity) of the yuan in international trade.

With regard to criminal liability *sensu stricto*, the newly added paragraph 18 in the 2026 *Notice* proclaims that

> entities engaging in virtual currency or real-world asset tokenisation-related illegal financial activities in violation of this Notice, or providing services thereto, shall be penalised in accordance with relevant provisions; where criminal offences are constituted, criminal liability shall be pursued in accordance with the law (People’s Bank of China, 2026, para. 18).

Regrettably, no concrete reference is made to the “relevant provisions”. Criminal liability cannot, after all, derive from vague reference to “the law” in general. Again, it remains unclear which *specific* acts relating to transactions, investments in cryptocurrencies or RWA tokenisation constitute criminal offences, as no such acts are expressly mentioned in the *Criminal Law* of the PRC. Interestingly, they also do not constitute a violation of the PRC *Administrative Law* (Zhao, 2025). In effect, Paragraph 18 must be supplemented with a clear indication of some other legal instrument that would establish such a liability. An analysis of the 2026 *Notice* suggests that the acts of trading or investing in virtual currencies on an individual basis are not crimes unless “financial order is disrupted or financial security is jeopardised” (People’s Bank of China, 2026, para. 19).[19] Somewhat surprisingly, “the crime of illegally absorbing public savings” (*Criminal Law (People’s Republic of China) 2021*, Article 176) appears to be the only criminal offence that might capture the act of transacting or investing in virtual currencies.[20] Moreover, it seems that criminal liability will only arise when such activities are conducted on a larger scale. An earlier, 2022 decision of the Supreme People’s Court indicates that criminal liability for “illegally absorbing funds through means such as online peer-to-peer lending, investment in capital, or trading of virtual currencies” is only triggered if the cryptocurrencies in question are offered to the public, as opposed to family or friends and, in addition, if such activities disrupt the financial order.[21] Such disruption would be present if, for example, the amount of illegally absorbed savings or the resulting losses exceeded certain monetary thresholds or if the number of persons whose funds were affected exceeded 150 (Supreme People’s Court, 2022, Article 3). It appears that Chinese regulators adopt a macro approach and focus on preventing the circulation of cryptocurrencies in the domestic market but are less inclined to penalise individuals.

2.4 Stablecoins and CBDCs

China currently does not authorise any bank or private entity to issue or facilitate the use of stablecoins. Consequently, popular fiat-backed stablecoins like USDT are prohibited and holding, trading or using them is considered illegal. Privately issued stablecoins are viewed as a threat to

[19] “Any civil juristic acts conducted by entities or individuals involving investments in virtual currencies, real-world asset tokens, or related financial products that offend public order or good morals shall be invalid, with the resulting losses borne by the parties themselves; where financial order is disrupted or financial security is jeopardised, relevant departments shall investigate and penalise in accordance with the law.” As the 2026 *Notice* does not clarify when or which certain investment acts disrupt financial order or jeopardise financial security, it is necessary to rely on the *Criminal Law* of PRC to determine the specific activities that will constitute criminal offences, see generally Part II Chapter 3, Sections 1–8, which deal with ‘Crimes of undermining order of socialist market economy’.

[20] The acts of “illegally absorbing funds through means such as online peertopeer lending, investment in capital or trading of virtual currencies … without the authorisation of relevant authorities or by using the guise as lawful business operation” are listed as an example of the crime of illegally absorbing public savings (Supreme People’s Court, 2022).

[21] Decision of the Supreme People’s Court (2022) to amend the *Interpretation of the Supreme People’s Court on several issues concerning the specific application of law in the trial of illegal fundraising criminal cases*, Article 2 of which amended Article 2(8) of the *Interpretation of the Supreme People’s Court on several issues concerning the specific application of law in the trial of illegal fundraising criminal cases* (Amended Interpretation).

financial sovereignty and capital controls. It is interesting to observe that China not only prohibits the issuance of yuan-pegged stablecoins but also limits Chinese companies from any involvement in stablecoin projects. For example, when Chinese tech giants Ant Group and JD.com attempted to launch stablecoins under Hong Kong's new licensing regime,[22] these plans were halted. Instead, China has channelled all its crypto-asset-related efforts into developing a central bank digital currency (the 'digital yuan', or e-CNY) as the main digital alternative to cash (Huang and Li, 2023, p. 409). At the time of writing, the e-CNY remains the world's largest live CBDC "experiment."[23]

Although e-CNY is generally referred to as a form of liability of the central bank designed to function as legal tender, there is no single statute regulating CBDCs or unequivocal description of their legal status. The legal basis of the e-CNY is a layered framework resting on existing monetary law, central bank regulations, evolving legislative proposals and regulatory directives for individual pilot programs in designated cities.[24] Their potential role as legal tender seems to derive from their being the digital equivalent of the yuan.[25] While certain aspects of the e-CNY are addressed by instruments such as the *Cybersecurity Law*, the *Data Security Law*, and the *Personal Information Protection Law*,[26] the relationship between the administrative instruments and the provisions of these statutes (Cheng, 2023) is often less than clear. The practical implementation of the e-CNY relies on a two-tier structure. At the first tier, the People's Bank of China is responsible for the issuance of e-CNY, while the second tier consists of qualified financial institutions, including traditional commercial banks and virtual

[22] Both Ant Group and JD.com were supposed to participate in Hong Kong's pilot stablecoin programme. Purportedly, the People's Bank of China raised concerns about allowing private tech companies to issue any form of currency (see *Financial Times*, 2025).

[23] Recent People's Bank of China figures showed that it had processed more than 3.4 billion transactions worth roughly 16.7 trillion yuan ($2.4 trillion), an 800% increase from 2023.

[24] The e-CNY pilot covered 23 mainland pilot areas: Shenzhen, Suzhou, Xiong'an, Chengdu, Shanghai, Hainan, Changsha, Xi'an, Qingdao, Dalian, Tianjin, Chongqing, Guangzhou, Fuzhou, Xiamen and six cities in Zhejiang Province associated with the Asian Games. Hong Kong is part of a separate cross-boundary pilot, where users can use e-CNY wallets in mainland pilot cities, but Hong Kong is not usually counted as one of the pilot cities (for a brief history of the introduction of the e-CNY in various cities and regions, see Huang and Li, 2023, p. 411, no. 52).

[25] The primary legal foundation is Article 16 of the *Law of the People's Republic of China on the People's Bank of China* (PBOC Law), which establishes the yuan as the sole legal tender in China. e-CNY derives its legal tender status by being treated as a digital form of the yuan—not as a separate instrument—meaning it inherits the yuan's legal character without having its own statutory definition.

[26] *Cybersecurity Law (People's Republic of China) 2017*, *Data Security Law (People's Republic of China) 2021* and *Personal Information Protection Law (People's Republic of China) 2021*.

commercial banks, which are responsible for their distribution through different types of e-CNY wallets (Huang and Li, 2023, p. 413). Despite the "borrowing" of popular crypto-terminology, e-CNY *wallets* are more akin to bank accounts that can be accessed from mobile devices but remain under the *de facto* control of the relevant bank. The wallets have some features that address the well-documented privacy concerns surrounding CBDCs, such as surveillance, data security, programmatic control and the erosion of financial autonomy (Mehlkop, Neumann and von Hermanni, 2023). To recall, unlike cash, a CBDC creates a 'digital trail', reflecting transaction histories, user demographics and spending patterns. These concerns are partially addressed through the design of various e-CNY wallets, which can be tailored to individual user preferences (Goodell and Al-Nakib, 2021). e-CNY wallets are generally divided into four tiers, depending on the degree of authentication required for their setup and the accompanying transaction limits. Higher tiers are anonymous and easy to open but have lower balances and transaction limits, whereas lower tiers require stronger authentication and allow higher limits. For example, a Tier 1 wallet must be opened in person and requires a valid ID card, mobile phone number and domestic bank account information. It is also linked to the customer's bank account. Tier 1 wallets have, in principle, no transaction limits.[27] In contrast, Tier 4 wallets may be opened remotely and require only a mobile phone number, without any linkage to a bank account. Whether the provision of anonymous wallets will sufficiently address the privacy concerns of e-CNY users remains to be seen. Admittedly, "traditional" yuan-based transactions made via popular payment apps like WeChat Pay and AliPay also leave a digital trail. These apps do not, however, provide an easy way to freeze or control how a customer's funds are used.

The e-CNY was predominantly designed to serve as a *domestic* common payment method for the general public and business entities in the retail market (Bank for International Settlements and Hong Kong Monetary Authority, 2022). For example, in the designated pilot cities, the e-CNY could be used to pay for public transport, at a wide range of shopping malls and chain supermarkets, as well as on some popular online platforms. At present, however, its use seems to be restricted to some government agencies and state companies. By way of background, it is worth noting that the environment in China is particularly conducive to the use of e-CNY because many Chinese consumers have entirely bypassed credit cards and moved straight from cash to mobile payments (Huang and Li, 2023,

[27] May depend on the bank and transaction.

pp. 416–422). Consequently, the e-CNY would not significantly affect the common habit of paying with one's phone. Moreover, given that some e-CNY wallets only require a mobile number but no bank account, and their use does not require an internet connection, the e-CNY seems uniquely suited to serve the underbanked (Huang and Li, 2023, p. 421).

Notwithstanding the foregoing, recent developments hint at a more prominent role for the e-CNY and seem to increase the international significance of this currency. From January 2026 onwards, e-CNY stored in wallets will earn interest and become the world's first interest-bearing CBDC.[28] This development makes the use of e-CNY particularly appealing to businesses involved in cross-border trade (Peng, 2026). It is envisaged that the e-CNY could also be used for international trade, particularly for cross-border payments between partner states in the Belt and Road Initiative. This, in turn, could have far-reaching geopolitical implications, as the broader adoption of the e-CNY might pose a direct threat to the US dollar (Huang and Li, 2023, pp. 424–425), which is the most widely used currency in international trade. China's global ambitions regarding the digital yuan are confirmed by its integration into mBridge—a wholesale, multi-CBDC settlement infrastructure for cross-border payments.[29] In theory, mBridge could reduce reliance on traditional correspondent banking networks and diversify payment systems away from channels traditionally based on the US dollar (Hentov and Mola, 2024). It is also speculated that if the e-CNY could eventually support direct cross-border settlements, it would counterbalance dollar-denominated stablecoins, such as USDT, and increase the share of yuan-based transactions.

[28] This next-generation e-CNY framework was announced at the end of 2025, when the People's Bank of China released the *Action plan on further strengthening the digital renminbi management service system and related financial infrastructure construction* (hereafter, Action Plan), which came into effect on January 1, 2026.

[29] mBridge enables participating banks to move money and settle foreign-exchange transactions directly and in real time across jurisdictions. It was developed by the BIS Innovation Hub Hong Kong Centre together with the Hong Kong Monetary Authority, the Bank of Thailand, the Digital Currency Institute of the People's Bank of China and the Central Bank of the UAE (see Bank for International Settlements, 2022).

3. Virtual assets in Hong Kong

Hong Kong's legal and regulatory framework stands in stark contrast to the Chinese approach and, at first glance, might appear to be a haven for crypto-related activities. To start with a cliché that best reflects Hong Kong's role as an international financial centre, the city aims to balance innovation with responsible oversight and create an environment that is conducive to a wide range of crypto businesses (Financial Services and the Treasury Bureau, 2025). Upon closer examination, the actual legal framework turns out to be far less innovative than commonly assumed, its best description being risk-averse, prudent and centralised. At the outset, it must be remembered that Hong Kong follows a clean-cut sectoral model, where designated regulators are responsible for specific financial activities. The Hong Kong Monetary Authority (HKMA), as the primary regulator of monetary policy, oversees banking regulation and the Securities and Futures Commission (SFC) regulates securities and futures. In the context of crypto-related activities, the HKMA has been tasked with stablecoin regulation, while the SFC has emerged as the main regulator regarding activities related to cryptocurrencies (*Securities and Futures Ordinance 2002*, Cap. 571, Schedule 5(1) and Part V), or, as they are called in Hong Kong, virtual assets.

3.1 Legal status of virtual assets

In principle, VAs do not have the status of fiat money or a legal tender. They have, however, been unequivocally classified as property in 'Re Gatecoin Limited (in liquidation)' (2023), a case concerning the collapse of a cryptocurrency exchange where retail investors contended that the cryptocurrencies held in their wallets constituted their property and were thus excluded from the general distribution of assets under insolvency law. The question was whether the cryptocurrencies were held on trust—and a valid trust can only be created over identifiable property. In principle, the subject matter of a trust, the *res*, must be something the law recognises as capable of being owned (Mak, 2025, pp. 1–7). Consequently, a threshold question is whether crypto-assets meet this fundamental definition. To determine the legal status of cryptocurrencies held by the failed exchange, the Hong Kong Court followed the English case 'National Provincial Bank v. Ainsworth' (1965), where the House of Lords held that for something to be property, it must be capable of definition, identifiable by the parties in question, capable of being assumed by the parties and characterised by some degree of permanence or stability. According to the Court, VAs satisfied all these requirements and constituted property. Cryptocurrencies can, after all, be definable because the public key associated with a cryptocurrency wallet is readily identifiable, distinct and capable of being uniquely associated with an individual account holder. They are also identifiable because only the holder of a private key can access and transfer them from one wallet to another. VAs can also be assumed by third parties, as they are widely traded. Moreover, given the very nature of blockchains, VAs have not only *some* but a *high* degree of permanence or stability. The inherent technical characteristics of cryptocurrencies, when translated into legal prerequisites, position them quite neatly into the category of property.

Needless to say, the express recognition of proprietary rights to crypto-assets provides legal certainty for investors in the event of bankruptcy, theft or loss. This decision is also in line with the broader trend in other common law jurisdictions, which generally recognise crypto-assets as a form of intangible personal property (see, e.g., 'Fabrizio D'Aloia v. Persons Unknown', 2024; 'ByBit Fintech Ltd v. Ho Kai Xin and others', 2023; 'Ruscoe v. Cryptopia Ltd. (in Liquidation)', (2020). Extrapolating from the 'Re Gatecoin' decision, it can also be assumed that contracts involving the transfer of VA are valid and enforceable.

3.2 Regulation of virtual assets

In principle, Hong Kong has not created a bespoke regulatory regime tailored to the technical characteristics of VAs but has subsumed them under regulations that govern specific activities. Following the 'same activity, same risks, same regulation' (Financial Stability Board, 2023) principle, Hong Kong focused on the economic functions and risks inherent in VA-related activities and attempted to confine their use by means of a technology-neutral, equivalent regulatory treatment. As a result, VAs that amount to 'securities and futures contracts' under the classic definition of the *Securities and Futures Ordinance (Hong Kong) 2003* (SFO) are classified as 'regulated activities' and fall under the supervision of the SFC. To provide some context, the SFC initially relied on securities law to regulate VAs that shared the characteristics of traditional investment products (*Securities and Futures Ordinance 2003*, Cap. 571, Section 116, Schedule 5(1–2)). Unsurprisingly, some of those "investment products" were deliberately engineered to ensure they remained outside the statutory definition of 'securities'. Regrettably, the resulting gaps in protection were accompanied by growing interest from retail investors. This unfortunate situation required a more restrictive approach and, in effect, a regulatory “overhaul”. Following extensive consultations, in 2018, the SFC introduced an opt-in licensing regime for platforms trading at least one security token. As such platforms were only permitted to serve institutional and qualified corporate professional investors, retail investors were (indirectly) pushed to unregulated exchanges that lacked even the most rudimentary protections. Restrictions on retail access were gradually weakened as several institutional players (e.g., Gemini) entered the Hong Kong market and the SFC authorised limited retail access to some crypto-linked derivative products and VA future exchange-traded funds (CCAF, 2024, p. 83).

In 2023, the SFC finally lifted the ban on retail access and introduced a dual-licensing regime that fully subsumed all VAs under the traditional regulatory framework. The new regime, effective from 1 June 2023, subjects entities offering VAs to two discrete legal instruments depending on the type of crypto-asset. VAs that can be classified as ‘securities’[30] (e.g., security tokens, tokenised shares, tokenised funds) are governed by the SFO (*Securities and Futures Ordinance 2003*, Schedule 1, Part I), and anyone dealing in or managing funds investing in such VAs must obtain licences specific to the given activity (see Burgess and Liu, 2025). Consequently, in the context of ‘*security*-VA’, the type of licence depends on the type of activity pertaining to such VA (Type 1 licence for dealing in securities, Type 7 licence for automated trading services, etc.) and does not involve any crypto-specific regulatory solutions. The entity engaging in the relevant activity is simply an SFC-licensed corporation conducting “regulated activities”. VAs that do not share the characteristics of any ‘securities’ (e.g., utility and payment tokens) are, in turn, governed by the amended *Anti-Money Laundering and Counter-Terrorist Financing Ordinance 2022* (AMLO), which also requires anyone carrying on the business of providing services related to such *non-security* VA to obtain a licence (AMLO, 2022, section 53ZR). This new framework effectively expands the SFC’s remit to regulate VAs that are not classified as ‘securities’ under the SFO. Consequently, entities that offer VAs in Hong Kong are subject to at least one of the aforementioned instruments and require an SFO licence if they trade any security VAs

[30] In a 2017 *Statement on initial coin offerings*, the SFC stated that that VAs may be considered ‘securities’ if they: represent equity or ownership interests in a corporation; create or acknowledge a debt or liability owed by the issuer; pay regular returns to investors that amount to dividend or interest or give their holders rights akin to that of a creditor or a shareholder (e.g., voting rights or the right to participate in the distribution of the corporation’s surplus assets upon winding up).

and an AMLO licence as a VA trading platform (VATP) for non-security VAs. In practice, most large platforms must be dual-licensed to preclude contravention of the licensing requirements and to ensure continuous compliance in the event that the attributes of a VA evolve to the point that its classification changes from a non-security VA to a security VA (or vice versa). Although the licensing regimes are separate, the SFC applies one integrated supervisory framework to both categories (Securities and Futures Commission, 2023). It is worth emphasising that the dual-licensing regime is relatively narrow as it only applies to centralised platforms, such as VA exchanges, and does not encompass DeFi or NFTs. The SFC's position seems to be that if a DeFi protocol or NFT project falls within the definition of any existing regulated activity (e.g., a collective investment scheme or securities), it would be regulated on that basis. Moreover, strictly private peer-to-peer transactions in VAs are generally permitted and remain outside of the licensing regimes. While individuals are encouraged to buy VA through locally licensed exchanges, there is nothing illegal *per se* to obtain them from foreign unregulated crypto exchanges.

A terminological clarification is apposite: the terms 'VA service provider' (VASP) and 'VA trading platform' (the aforementioned VATP) are related but not interchangeable. VASP denotes a broader concept under the AMLO licensing regime, while VATP refers specifically to trading platforms. Consequently, a VASP is a *person or operator*[31] licensed to "provide a VA service" and a VATP is a centralised trading *platform* that enables VA trading via an automated matching engine and (typically) custody as an ancillary service.[32] In practice, the only VA service presently regulated under the AMLO regime is the operation of a centralised VA trading *platform* (VATP). In 2026, VASP regulation is therefore effectively synonymous with VATP regulation (see Securities and Futures Commission, 2025).[33]

31 This term is generally used in the aforementioned *Guidelines for virtual asset trading platform operators*.

32 The relevant provisions are somewhat complex: a person operating a VA exchange in (a) Hong Kong or (b) elsewhere but actively markets to the Hong Kong public, is regarded as carrying out a "regulated activity" and requires a licence from the SFC (AMLO, 2022, Schedules 53ZRD(1) and 53ZRB). The licensing requirement itself pertains to the provision of a VA service, which denotes the operation of a VA exchange, i.e. providing services through means of electronic facilities, whereby offers to sell or purchase VAs are regularly made or accepted in a way that forms or results in a binding transaction; or persons are regularly introduced or identified to other persons in order that they may negotiate or conclude, or with the reasonable expectation that they will negotiate or conclude sales or purchases of VAs in a way that forms or results in a binding transaction; and where client money or client VAs comes into direct or indirect possession of the person providing such service (AMLO, 2022, Schedule 3B).

33 'VATP' is the operational label used by the SFC for platform operators, e.g., in its licensing guidance and rulebooks.

As the SFO does not introduce any VA-specific solutions, it is more interesting to briefly discuss the VASP licensing regime under the AMLO, especially since the most popular cryptocurrencies, such as Bitcoin and Ether, are considered non-security VAs and are thus subject to the AMLO framework. While the SFO does not contain any definition of VAs, focusing solely on their function and not technical attributes, the AMLO describes them as 'cryptographically secured digital representations of value', expressed as a unit of account or a store of economic value (AMLO, 2022, section 53ZR(1)). A VA must also be used (or intended to be used) as a medium of exchange that is accepted by the public or confers governance/voting-type rights connected with the arrangement for such a digital representation of value. The AMLO also recognises the property-like nature of VAs by requiring them to be capable of transfer, storage or electronic trading (AMLO, 2022, Section 53ZRA). The regulation imposes several typical requirements, such as sufficient presence in Hong Kong, appointment of at least two responsible officers to ensure compliance with AML and CTF requirements, passing the fit-and-proper test and fulfilling certain capital requirements. Moreover, the AMLO treats licensed VATPs as 'financial institutions' and obliges them to conduct risk-based customer due diligence: identify and verify (customers, beneficial owners and controllers, etc.), conduct ongoing monitoring of transactions with enhanced measures for higher-risk customers or geographies, file suspicious transaction reports where appropriate and screen customers and transactions against sanctions lists, etc. Following the FATF 'travel rule', when VAs are transferred to or from other VASPs, the VATP must obtain, hold and transmit originator and beneficiary information (name, account or wallet identifier, etc.), subject to *de minimis* thresholds. Interestingly, VASPs are not allowed to provide algorithmic trading services or make any arrangements, such as staking, that use their clients' VAs to generate returns.[34] They are also prohibited from offering, trading or dealing activities in VA futures contracts or related derivatives. Apart from assessing the knowledge and risk profile of each potential retail investor, VASPs are obliged to limit such investor's exposure to a given VA with reference to their financial and personal circumstances.[35] Moreover, VATPs serving retail investors are only permitted to trade crypto-assets with high levels of liquidity—that is, featuring in at least two "acceptable indices" issued by at least two independent index providers.

[34] Given the increasing demand for staking services, the SFC and HKMA have adjusted their regulatory stance to allow VATPs to provide staking services to clients, see SFC *Circular* 25CC22 on staking services provided by virtual asset trading platforms.

[35] The SFC (2023b, p. 6) stated that, "as most virtual assets are high risk, they are only suitable for clients who have high risk tolerance".

3.3 Stablecoins

Hong Kong was one of the first jurisdictions to introduce a bespoke novel regulatory framework for stablecoins. The *Stablecoins Ordinance* (Cap. 656), in effect from August 2025, establishes a strict licensing regime for stablecoin issuers[36](*Stablecoins Ordinance (Hong Kong) 2025*, para. 2.4.1) and is overseen by the HKMA. Although the SO recognises a broader category of 'stablecoins', defined as a cryptographically secured digital representation of value that is intended to be used as a medium of exchange and purports to maintain a stable value by referencing another asset (*Stablecoins Ordinance 2025*, Section 3), the current framework only covers fiat-referenced stablecoins (FRS)—that is, stablecoins that maintain a stable value by reference to one or more official currencies (*Stablecoins Ordinance* 2025, Section 4, *Explanatory note on licensing*, para. 2.1). Algorithmic stablecoins and commodity-backed stablecoins, while not expressly banned, are excluded from the regime (Li, 2024). The HKMA has the authority to expand the regulatory framework by specifying additional units of account or stores of economic value (*Stablecoins Ordinance 2025*, Section 4(2)). Crypto or commodity-referenced tokens fall outside the perimeter of the SO and into the general VA regime.

Three points require emphasis to better understand this approach:

First, the framework is tailored to stablecoins intended to function as reliable payment instruments.[37] The focus on 'digital cash equivalents' justifies the strict licensing regime and the prudential requirements normally reserved for established financial institutions. It must also be remembered that in Hong Kong, money is issued by both the government and licensed commercial banks under the supervision of the HKMA.[38] This creates a peculiar situation: FRS pegged to the Hong Kong dollar may be issued by banks that already print the dollar! Moreover, FRS pegged to the Hong Kong

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36 "The question of what constitutes an issue of a specified stablecoin is generally a matter to be decided on the basis of the facts and circumstances of each individual case. A specified stablecoin is typically considered issued (or 'minted' in industry parlance) when it is first recorded on a distributed ledger (or similar information repository) and assigned to a digital wallet address."

37 Policy direction for advancing digital asset use cases and cross-sectoral collaboration articulates the exploration of stablecoins as a payment tool (see Financial Services and the Treasury Bureau, 2025)..

38 The HK$20, HK$50, HK$100, HK$500 and HK$1,000 notes are issued by three banks: the Hongkong and Shanghai Banking Corporation Limited, Bank of China (Hong Kong) Limited and Standard Chartered Bank (Hong Kong) Limited (see Hong Kong Monetary Authority, no date).

dollar are indirectly tied to the US dollar because the Hong Kong dollar is inherently pegged to the US dollar.

Second, the SO is issuer-centric. The regulatory framework is tailored to centrally managed fiat-referenced stablecoins issued by a single entity. It is not suitable for decentralised structures common in decentralised finance (DeFi), where minting, governance, custody, reserve management and front-end distribution are split across multiple actors or protocols. This was a deliberate choice: a centralised framework underpinning a given stablecoin may seem less innovative and inclusive but facilitates supervision and management.

Third, Hong Kong's stablecoin framework has crystallised after the May 2022 failure of TerraUSD and the November 2022 bankruptcy of FTX. Unsurprisingly, the HKMA placed more emphasis on financial stability and less emphasis on headline-worthy proclamations of "revolutionary innovation". The SO is built to ensure stability and minimise risk. The core requirements with regards to FRS are as follows.

Any entity issuing a stablecoin in Hong Kong, referencing the Hong Kong dollar or actively marketing FRS to the Hong Kong public must obtain an HKMA licence. Licensees must be either companies incorporated in Hong Kong or authorised institutions (i.e., HKMA-licensed banks) incorporated overseas with a principal place of business in Hong Kong. While the high capital requirements seem to favour banks,[39] it must be emphasised that the SO allows nonbank entities to become FRS issuers. At the same time, the bespoke prudential regime created by the SO establishes bank-like standards. In essence, stablecoin issuers are subject to strict requirements, which are typically reserved for traditional financial institutions and may be difficult to fulfil by less-established entrants (Hong Kong Monetary Authority, 2026). While this approach may limit the creation of a diverse environment, with a barrage of stablecoins competing for investor attention, its adoption should not come as a surprise, given the negative experiences with stablecoin issuers and the widespread use of cryptocurrencies and stablecoins for illicit transactions.

Following the principle of 'same activity, same risks, same regulation' (Hong Kong Monetary Authority, 2025), licensed stablecoin issuers are also designated as financial institutions under the AMLO (2025, Cap. 615,

[39] The minimum paid-up share capital requirement is HKD 25 million (approximately $3.2 million), HKD 3 million in liquid capital and excess liquid capital covering at least 12 months of operating expenses.

Schedule 1, Part 2) and are automatically subject to AML/CFT obligations (*AML/CFT Guideline*, 2025, para. 1.1). Given their notoriety for facilitating criminal activities, the regulations impose strict know-your-customer (KYC) compliance for stablecoin transactions above a certain monetary threshold. The relevant KYC requirements take effect before establishing a business relationship with a customer or before carrying out a transaction involving an amount equal to or above HKD 8,000 (i.e., about US$ 1050) (*AML/CFT Guideline*, 2025, para 4.4). The KYC requirements apply not only to stablecoin holders but also to beneficial owners and persons acting (or purporting to act) on their behalf (*AML/CFT Guideline*, 2025, para 4.3). In practice, stablecoin holders must undergo KYC verification whenever they obtain, redeem, trade or custody on licensed platforms, or make transfers that pass through VASPs where the 'travel rule' applies. The fact that stablecoin holders are subject to KYC verification could be regarded as controversial, as it not only undermines their privacy but also complicates their everyday use. If FRS are to function like the digital equivalents of the traditional currencies they are pegged to, and if the use of such currencies in their traditional form is generally anonymous, then the strict KYC requirements create not only a conceptual dissonance but also a clear disincentive to the use of FRS. This conundrum illustrates the difficulty of striking the perfect balance between strengthening the payment function of FRS on the one hand and preventing their use in criminal activities on the other. Ultimately, it must be remembered that FRS were deliberately designed as payment-*related* instruments with prudential oversight, akin to other regulated financial products.

As indicated, Hong Kong's regulatory framework centres on stability. It follows that the SO imposes stringent requirements for reserve management, redemption and risk controls to ensure that FRS are—and remain—*stable* and thus safe for retail investors. The latter cannot be expected to examine the arcane mechanisms of stabilising the value of stablecoins, which are common in their algorithmic variety. As observed by Li (2024), without a proper understanding of the stabilisation system, issuers can make misrepresentations or fraudulent statements to investors, claiming that the stabilisation system can automatically balance the supply and demand in a decentralised manner and resist market disturbances. In the case of FRS, such stabilisation is straightforward and, in essence, depends on the presence of adequate reserves of the currency to which the stablecoin is pegged. Given that the core premise underpinning Hong Kong's framework is for the FRS to function as an equivalent of digital money, the reference currency to which a stablecoin is pegged and against which it maintains a stable value must be an official currency (or a basket of currencies). The FRS must be fully backed by reserve assets on at least a 1:1 basis, with the market value of reserves equal to or always exceeding the par value of stablecoins in circulation. This over-collateralisation aims to create a buffer against market volatility and guarantee the fulfilment of redemption requests. The reserve requirements are also strict in terms of composition: they must consist of high-quality, low-risk, liquid assets, such as cash, bank deposits or short-term government securities. Under the 'currency matching' rule, the reserve assets must be denominated in the same reference currency as the stablecoin (e.g., holding USD assets to back a USD-pegged stablecoin) (*Stablecoin Ordinance 2025*, Section 2.4, *Guideline on the supervision of licensed stablecoin issuers*). If a stablecoin references a basket of currencies, the reference currency effectively becomes a weighted combination of the underlying currencies (e.g., a stablecoin pegged to 50% USD and 50% EUR) and the reserve assets must match these proportions. The HKMA has the mandate to examine the composition of reserve assets. There is also a preference for the reserves to be held locally, with Hong Kong banks as custodians. The importance of this preference becomes immediately apparent if one considers the extremely demanding redemption requirements: stablecoin holders have the unconditional right to redeem their FRS at par value *at any time* within one business day (T+1) of a valid request. This is much stricter than in many traditional banks, where cross-bank transfers or even simple withdrawals may take several days. This right to redeem seems to reflect the regulatory intent to give stablecoin holders the same confidence "as if" they were holding cash. It is, however, prohibited to provide any interest or interest-like incentives based on the holding period, par value or market value (*Stablecoin Ordinance 2025*, Schedule 2, Section 15). This restriction aims to prevent stablecoins from competing with bank deposits and maintain distinctions between different types of financial instruments.

Particular emphasis is placed on the protection of the reserve assets in the case of the issuer's bankruptcy. The reserve assets must be segregated from the issuer's other assets (see *Explanatory note on licensing*, para. 3.4.4; SO, Schedule 2, Sections 5(1) and 5(4)) and held on trust for and on behalf of specified stablecoin holders (*Stablecoins Ordinance 2025*, Schedule 2). Issuers are also expressly obligated to implement "effective trust arrangements" (*Explanatory note on licensing*, para 3.4.4; Hong Kong Monetary Authority, 2026, Sections 2.4 and 2.5.2). Consequently, issuers must create formal trust structures, placing the reserve funds with an independent trustee or custodian, which must be a regulated entity such as a licensed bank. The importance of clear trust structures was made apparent in the abovementioned case of 'Re Gatecoin Limited (in liquidation)' (2023), where one of the contentious issues was whether the relevant crypto-assets were *in fact* held on trust. While it was held that the crypto-assets constituted property, the Court also decided that they were not held on trust so that the crypto-assets of the account holders were not protected in the bankruptcy proceedings. The SO avoids any ambiguity in this regard, as it expressly creates a protected right to redeem the FRS at par value, even in the event of the issuer's collapse. This means that stablecoin holders have a direct proprietary claim on the reserves that shield them from loss in the event that the issuer becomes bankrupt.[40] Issuers must also obtain an independent legal opinion demonstrating the effectiveness of these protective structures and submit the same to the HKMA (see *Explanatory note on licensing*, para 3.4.4).

The SO also restricts who can offer stablecoins to the public. Under the SO, it is an offense to offer or hold oneself out as offering specified stablecoin, unless the person is a 'permitted offeror', such as licensed banks, securities firms, stored value facilities operators and licensed VATP, or an authorised institution (i.e., banks). Unlicensed stablecoins, such as USDT, may only be offered by specific 'permitted offerors'[41] and only to professional investors. As retail access is limited to FRS issued by HKMA-licensed issuers, stablecoins by unlicensed issuers (e.g., foreign FRS that are not pegged to the HK dollar, such as Tether, etc.) can only be offered to professional investors. Consequently, Hong Kong's retail investors are unable to trade in many of the global stablecoins on any of the VATPs unless their issuers become licensed in Hong Kong.

[40] The bankrupt's estate consists of the bankrupt's property for the benefit of creditors, but property held by the estate merely as trustee is not available for general distribution because beneficial ownership lies elsewhere. In insolvency, trust law functions as a boundary device that determines whether the debtor holds only formal title to the asset in question while the equitable interest belong to another person who therefore claims priority not as a creditor but as an owner. Trust analysis in bankruptcy is less about 'asset protection' than about the antecedent allocation of ownership (see, generally, Oakley, 1995).

[41] The current framework identifies five types of permitted offerors: (1) licensed stablecoin issuers, (2) SFC-licensed virtual asset service providers / licensed virtual asset trading platforms, (3) stored value facility licensees, (4) corporations licensed by the SFC for Type 1 regulated activity and (5) authorised institutions, meaning banks (see SO, Section 9).

4. Final observations

Neither China nor Hong Kong embraces the original libertarian promise of crypto-assets as a vehicle for disintermediation or the achievement of financial freedom. Neither country focuses on the novelty of the technologies underpinning crypto-assets and seems generally indifferent, if not hostile, to the wide range of possibilities enabled thereby. Ultimately, despite the differences in approach, both jurisdictions aim to preserve monetary sovereignty, financial stability and *centralised* control. Crypto-assets can only develop within the state's monetary and regulatory perimeter. China's rejection of crypto-assets, while not as absolute as commonly believed, focuses on prohibiting large-scale trading and associated activities, which could not only encourage wider adoption by retail investors but also threaten the country's monetary sovereignty and its financial stability. While the possession and transfer by and between private individuals are not strictly illegal and generally do not invoke criminal liability, the mere fact that all contracts pertaining to crypto-assets are invalid and thus unenforceable disincentivises any such transactions and hence crypto-investments in general. China's dominant focus on the e-CNY points to its wider role in international trade, where the focus is less on privacy and more on efficiency and profitability. Hong Kong's approach is conservative and, again, centralised. While crypto-assets are subsumed under traditional regimes (with minor adjustments), the new stablecoin regulations effectively recreate such regimes and establish a conservative, prudential framework that favours larger financial institutions.

In both China and Hong Kong, the legal and regulatory landscape will depend less on exciting technological developments than on the more pragmatic question of whether a given crypto-related activity can be reconciled with state priorities and institutional control.

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