

15 March 2018

Mr Howard Lee, *JP*
Deputy Chief Executive
Hong Kong Monetary Authority
55/F, Two International Finance Centre
8 Finance Street
Central Hong Kong

Dear Howard,

Consultation on “Guideline on Authorisation of Virtual Banks”

The Hong Kong General Chamber of Commerce welcomes the opportunity of commenting on the Consultation on the Hong Kong Monetary Authority’s draft Guideline on Authorisation of Virtual Banks (“the CP”). We are pleased to attach for your consideration our comments in response to the CP’s proposals.

Although we support the proposal to promote wider options for customers and foster innovation in Hong Kong through the setting up of virtual banks, it is also equally important that virtual and conventional banks operate under equal footing.

We hope you will find our comments to be useful to your deliberations.

Yours sincerely,



Shirley Yuen
CEO

Encl.

cc: Technology Risk Team, Banking Supervision Department, Hong Kong Monetary Authority

Response by Hong Kong General Chamber of Commerce (“HKGCC”) to the Consultation Paper by Hong Kong Monetary Authority (“HKMA”) on “Guideline on Authorisation of Virtual Banks” (the “CP”)

HKGCC welcomes this opportunity to comment on the CP (since the CP is effectively the proposed new guideline, references to paragraphs in the CP refer also to paragraphs in the proposed new guideline). Our comments are as follows:

1. We agree with HKMA’s view that the establishment of virtual banks in Hong Kong is to be encouraged. Doing so has the potential to give customers a wider choice of services, and to promote innovation. Unfortunately, the CP does not explain how the amendments to the existing guideline that it proposes will give encouragement for the establishment of virtual banks which is additional to that provided in the existing guideline.
2. In general, to ensure a level playing field, the basic requirements imposed on virtual banks should be the same as those that apply to conventional banks. That said, HKMA’s policy objective of encouraging the establishment of virtual banks may provide an appropriate opportunity to re-examine whether the current anti-money laundering (AML) requirements adversely affect the ability of banks (whether conventional or virtual) to do business in an innovative and customer-friendly way, and whether these requirements can be relaxed in a way that still achieves the AML objective. More generally, we suggest that HKMA reviews whether (and if so how) how the existing AML and “know your customer” requirements and guidelines should be adapted to deal with virtual banks. For example, how should identity-checking be carried out by virtual banks? Should this be done physically, or could it be done by facial recognition or other electronic means?
3. What would the corporate governance requirements applying to virtual banks be, such as directors’ qualifications, internal audit and risk management (including cyber-security)? Would external auditors be required to have extra qualifications, due to the specialized nature of their business?
4. While customers must be protected against any additional risks that virtual banks may pose due to the nature of their business, any additional requirements should be clearly justified and proportionate. Unfortunately, however, the CP does not explain clearly what the additional requirements applying to virtual banks (or their holding companies) will be, and why. Some examples are given in the following paragraphs.
5. The CP proposes the introduction of a “new principle” that virtual banks should “play an active role in promoting financial inclusion” and “endeavour to take care of the needs of their target customers”.¹ Are these simply exhortations, or will they be requirements for authorization and/or ongoing requirements? If they are requirements, we would be concerned about the vagueness (and therefore subjectivity) of this wording.

¹ CP para 6.

6. The CP states that virtual banks “should not impose any minimum account balance requirement or low-balance fees on their customers”.² However, conventional banks currently charge different fees and offer different privileges to various categories of customer. We presume it is not HKMA’s intention to prohibit virtual banks from doing the same. This should be clarified.
7. The CP states that if a Hong Kong-incorporated virtual bank is not owned by a bank or financial institution regulated in Hong Kong or elsewhere, its holding company should also be incorporated in Hong Kong, and the holding company will be subject to “supervisory conditions”.³ It then states that “[t]he conditions to be imposed will cover requirements relating to capital adequacy, risk management, and the submission of financial and other information to the MA”. However, it is not clear what these conditions will be, and whether they will be the same as those that apply to conventional banks.
8. The CP states that a virtual bank must put in place appropriate risk management systems, present a credible and viable business plan, and provide an exit plan.⁴ How are these requirements to be implemented? For example, will HKMA have to be satisfied as to these matters before granting an authorization? Will they be embodied in licence conditions?
9. The CP refers to the need for capital adequacy,⁵ but it is not clear how capital adequacy is to be measured. If this is clarified in other HKMA guidelines or the Ordinance itself, a cross-reference to the relevant source(s) would be useful.
10. Some of the lack of clarity referred to in our comments above could have been avoided, in our view, if the CP had (a) tracked the changes from the existing guidelines, instead of merely stating “existing principle, with minor modifications” or “existing principle, with significant modifications” (leaving the reader to work out precisely what the changes are) and (b) explained clearly why these modifications, and the proposed “new principles”, are considered necessary. It would be very useful if HKMA could circulate a second consultation paper with these changes. If not, we hope that at least the final version of the guideline will be accompanied by a tracked-changes version, and a full explanation as to why the changes are considered necessary.

² CP para 6.

³ CP para 9.

⁴ CP paras 16-18.

⁵ CP paras 9, 24.