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PROVIDING STAKING SERVICES - THE SFC TERMS AND CONDITIONS

BACKGROUND

Staking is a popular activity within the virtual assets ("VA") industry and is an important function that virtual asset trading platform operators ("VATP Operator") provide to their clients. However, as staking has characteristics that are similar to the operation of a collective investment fund (CIS), the Hong Kong Securities and Futures Commission ("SFC") treated staking cautiously, and considered that staking may constitute unauthorised CISs. This approach was also incorporated into the different VA-related guidelines published by the SFC, including the [Guidelines for VATP Operators](#) (the "**VATP Guidelines**").

Due to the high demand in staking and the SFC's recognition of the potential benefits of staking, where it potentially enhances the security of blockchain networks, on 7 April 2025, the SFC changed its cautious approach and published the [Circular on staking services provided by virtual asset trading platforms](#) (the "**Staking Circular**"), which VATP Operators are now allowed to provide staking as a service subject to a set of terms and conditions (the "**Staking T&Cs**") that are annexed to the Staking Circular.

This client alert summarises the key requirements in the Staking Circular and the Staking T&Cs.

GENERAL RESPONSIBILITIES

In the Staking Circular, "**Staking Services**" is defined to mean the arrangements that involve the process of committing or locking client VAs for a validator to participate in a blockchain protocol's validation process based on a proof-of-stake consensus mechanism, with returns generated and distributed for that participation, and "**Validator**" is defined to mean the operator of one or more nodes participating in a blockchain protocol's validation process based on the proof-of-stake consensus mechanism. The SFC also specified that the Staking Services constitute "Relevant Activities" as defined in the VATP Guidelines, therefore are regulated.

The provisions of Staking Services are subject to some general principles:

- + the custody of client VAs by a third-party service provider is not permitted;
- + the VATP Operator can only provide Staking Services to persons who are, and remain at all times, its clients; and
- + the VATP Operator should at all times maintain possession or control of all mediums through which the client VAs may no longer be staked (i.e. control the withdrawal address private key and the pre-signed voluntary exit message).



KEY RESPONSIBILITIES

The Staking T&Cs require a VATP Operator to establish and maintain:

- + policies and procedures to prevent or detect errors, omissions, fraud, and other unauthorised activities associated with Staking Services, and to ensure proper identification and management of the relevant risks, so client VAs are properly safeguarded;
- + internal controls to manage operational risks and address potential conflicts of interest, including: (a) a systematic whitelist of the withdrawal address which is managed by the private key of the VATP Operator's client cold wallet; (b) an independent verification of the proper configuration of the final message to ensure that the staking instructions to the blockchain is correct and to the designated whitelisted withdrawal address; and (c) if a third party validator would be involved, a contingency plan with a pre-signed withdrawal message, and to verify that the withdrawal message is valid and can be executed independently of the validator when necessary;
- + operational rules governing the Staking Services;
- + procedures to respond to slashing events, rising inactivity rates, or any events that may negatively impact the clients' staked assets; and
- + additional resources which the SFC requires from time to time to protect against potential losses.

DISCLOSURE AND CLIENT AUTHORITY

When providing a client with Staking Services, the VATP Operator should:

- + obtain the client's standing authority or a one-off written direction;
- + confirm with its clients the relevant terms of the staking, both prior to the initiation and promptly after the completion of the staking process. Relevant terms should include the name of the VAs to be staked, amount or value, and the fees and charges to be borne by the client. Such information should also be included in the monthly statements of account to be provided to the clients; and

- + make adequate disclosure, as well as any material changes to the information, on the Staking Services, which is necessary to enable clients to make an informed decision. The Staking T&Cs set out a list of the minimum contents required on the disclosure, including the risks associated with staking, and the client's written acknowledgement of the risk disclosure should be obtained (unless dealing with an institutional or qualified corporate professional investor).

RECORD KEEPING

VATP Operators and their associated entities must retain records related to the provision of Staking Services for at least seven years. These records should include: (a) particulars of the transactions of staking that the VATP Operator handled for its clients; and (b) the decisions of selecting the relevant blockchain protocols and the validation process arrangements.

SELECTION OF BLOCKCHAIN PROTOCOL AND THE MANAGEMENT OF VALIDATORS

The VATP Operator's token admission and review committee should select specific blockchain protocols to provide Staking Services with due skill, care and diligence. In particular, they are required to consider the non-exhaustive list of factors set out in paragraph 7.6 of the VATP Guidelines and the VATP Operator's (or any third-party validator's) internal controls and systems, technology and infrastructure.

In relation to the validation process arrangement, the Staking T&Cs set out a comprehensive list of factors that the VATP Operators must take when assessing the arrangement. If a third-party validator is involved, then there should also be a formal agreement that specifies the terms of the validator's services and responsibilities.

APPROVAL AND NOTIFICATION REQUIREMENTS

If Staking Services for a particular blockchain protocol will be provided to retail clients, then the SFC's prior written approval is required. If the services will only be made available to professional investors, then the SFC only needs to be notified.



CONCLUSION

The Staking Circular and the Staking T&Cs will create more business opportunities for VATP Operators, and other relevant service providers. Consequentially, the SFC also updated its [Circular on SFC-authorised funds with exposure to virtual assets](#) and the [FAQ on Code on Unit Trusts and Mutual Funds](#), so that SFC-authorised VA Funds may also be engaged in staking, provided that the SFC's prior approval is obtained and the additional regulatory requirements are complied with.

Our team regularly advises financial institutions on a wide range of regulatory issues relating to VAs. Please get in touch if you are interested in discussing any of the above.

Thank you.

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