August 28, 2025

ripple

Division 5, Financial Services Branch
Financial Services and the Treasury Bureau
24/F, Central Government Offices
Tim Mei Avenue, Tamar Central
Hong Kong

Submitted via email: vacustody-consult@fstb.gov.hk

Financial Services and the Treasury Bureau ("FSTB") and the Securities and Futures Commission ("SFC") Public Consultation on Legislative Proposal to Regulate Virtual Asset Custodian Services

Dear Sir/Madam,

Ripple Labs Inc. ("Ripple") welcomes the opportunity to comment on the jointly issued *Public consultation on* the *Legislative Proposal to Regulate Virtual Asset Custodian Services* (the "Custody Consultation") published on June 27, 2025 by the Financial Services and Treasury Bureau ("FSTB") and the Securities and Futures Commission ("SFC").[1]

Ripple would like to thank the FSTB and SFC for the in-depth and comprehensive analysis that has been undertaken in the Custody Consultation. We appreciate having the opportunity to provide our comments and respectfully request that they be taken into consideration as both regulatory authorities examine the policy direction and scope of intended regulation for virtual asset ("VA") custody services.

Ripple has previously responded[2] to the joint FSTB and SFC public consultation on Legislative Proposals to Regulate Over-the-Counter Trading of Virtual Assets published on February 8, 2024 (the "OTC Consultation").[3]

It is encouraging to note that the FSTB and SFC have incorporated much of the feedback provided in our response into this latest proposal. We welcome the opportunity for ongoing engagement with the FSTB and SFC on this Custody Consultation and any other related consultations as may be appropriate.

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[1] See https://apps.sfc.hk/edistributionWeb/api/consultation/openFile?lang=EN&refNo=25CP7, *Public Consultation on Legislative Proposal to Regulate Virtual Asset Custodian Services.*
[2] See https://ripple.com/files/Ripple-response-to-the-FSTB-Consultation-Paper-on-Legislative-Proposals-to-Regulate-Over-the-Counter-Trading-of-Virtual-Assets.pdf, *Ripple response to OTC Consultation.*
[3] See https://www.fstb.gov.hk/fsb/en/publication/consult/doc/VAOTC_consultation_paper_en.pdf, *Public Consultation on Legislative Proposals to Regulate Over-the-Counter Trading of Virtual Assets.*

In responding to this Custody Consultation, there are two overall themes that we wish to bring to the attention of the FSTB and SFC:

- We respectfully request that the SFC provide clear guidance as to the criteria it will use to assess whether custody is being undertaken. We believe this will ultimately amount to determining which entity holds control over private keys and, therefore, client assets.
- We would strongly suggest reconsidering the proposal for a licensing framework for individuals performing custody functions within a licensed entity. Such requirements could have consequences in relation to liability that the individual may not have appropriate responsibilities within the entity to effectively manage.

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With this overview, Ripple respectfully submits the following responses to the questions outlined in the Consultation in the attached Appendix. In addition to the Custody Consultation, Ripple has also provided comments on the FSTB and SFC's joint consultation on the *Legislative Proposal to Regulate Dealing in Virtual Assets* ("Dealing Consultation") published on June 26, 2025[4] and we request that the response is also read in conjunction with this comment letter.

Should the FSTB and SFC wish to discuss any of the points raised as part of this feedback, please do not hesitate to contact Rahul Advani (Global Co-Head of Policy) at radvani@ripple.com or Caren Tso (Policy Manager, APAC) at ctso@ripple.com.

Sincerely,
Ripple Labs Inc.

[4] See https://apps.sfc.hk/edistributionWeb/api/consultation/openFile?lang=EN&refNo=25CP6, *Legislative Proposals to Regulate Dealing in Virtual Assets.*

APPENDIX

Ripple respectfully submits the following responses to the proposals in the Custody Consultation.

1. **Do you have any comments on the proposed definition and scope (e.g., too narrow or too wide) of VA custodian services to be regulated?**

Ripple is generally supportive of the proposed definition and scope of VA custodian services. We welcome the inclusion of instruments enabling the transfer of VAs (such as private keys) within the definition, as it provides regulatory clarity on what constitutes VA custody. We also agree with the proposal to apply exemptions where the safekeeping of client VAs is wholly incidental to the provision of other regulated VA services, as this ensures the regime remains proportionate and risk-sensitive.

2. **For entities which do not safekeep private keys but arrange a third party to custody the client VAs or otherwise safekeep the private keys (such as a private fund trustee of a VA fund that delegates the safekeeping of private keys to a sub-custodian), should they be required to obtain a VA custodian service provider licence? Please explain your comments.**

Ripple does not believe that entities which do not safekeep private keys but instead arrange a third party to custody client VAs should be required to obtain a VA custodian service provider license. Where such entities do not hold control over a client's wallet, whether through access or infrastructure, they are not, in substance, providing a custody service. While they may remain contractually responsible for the safekeeping of client assets, imposing a licensing requirement would create unnecessary regulatory burdens. These entities should remain responsible for conducting vendor due diligence and maintaining oversight of outsourcing arrangements, but should not require a licence if they do not themselves hold or control client assets.

This becomes less clear in cases where, for example, a non-VA custodian in Hong Kong offers broader financial custody services but outsources its VA custody function to a sub-custodian. Although the entity may not directly hold private keys, if it markets or holds itself out as providing 'VA custody,' we believe it should be subject to licensing requirements.

On the other hand, entities such as VATPs often perform custody functions on an ancillary basis to facilitate their core business activities, such as exchange or settlement, and typically do so without separately charging for custody. In most jurisdictions we have experience with, such activities are not subject to a separate VA custodian licence:

- Monetary Authority of Singapore ("MAS"): Under the Payment Services Act, [5] Digital Payment Token ("DPT") service providers may perform custody functions (e.g., holding customer assets) as part of their exchange or transfer services. These functions are regulated under the same licence and do not require a separate, standalone custody licence, as long as they remain incidental to the main regulated activity.
- European Union: Under the Markets in Crypto-Assets Regulation ("MiCA"), [6] Crypto-Asset Service Providers ("CASPs") are allowed to provide multiple services, including custody, under a single CASP licence. A separate authorisation is not required for custody services, provided they comply with applicable regulatory and operational safeguards.

We welcome the SFC's proposal to exempt entities that perform custody on an ancillary basis, and believe this reflects a proportionate and risk-sensitive approach aligned with international regulatory practice.

To provide greater clarity, we recommend that the SFC issue guidance on when a service transitions from technical or non-custodial support into a regulated VA custody activity. In our view, factors that may indicate that custody is being provided include:

- Whether the provider has control over the end user's private keys, such as the ability to unilaterally or jointly approve or block transactions;
- Whether the provider can access client wallets without the client's intervention;
- Whether the client can recover their private keys or assets independently if the provider ceases to operate; and
- Whether the provider markets itself as offering 'custody' or token recovery services, implying access to or control over client assets.

Finally, we recommend that the SFC explicitly recognise self-custody as out-of-scope of the proposed licensing regime. Self-custody, which carries its own benefits and risks, should be recognised as a valid option within a technology-agnostic framework, acknowledging that while it enhances user control, it also entails irrecoverability in the event of lost private keys.

Where clients retain full and exclusive control over their private keys without delegating access or authority to any third party, such arrangements should not be considered VA custodian services. While the Custody Consultation appropriately focuses on services provided "by way of business," an express

[5] See https://www.mas.gov.sg/regulation/payments/licensing-for-payment-service-providers, *Licensing for Payment Service Providers.*
[6] See https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32023R1114, *Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937.*

clarification would offer legal certainty and avoid unintended regulatory overreach into non-custodial models.

3. **Are there any entities which should be licensed or registered for providing VA custodian services but are not caught by the proposed definition? Please explain your comments.**

As noted in our response to Question 2, we believe that a clearly defined set of criteria from the SFC would provide much-needed clarity on the scope of activities that constitute VA custodian services. This would help ensure that entities that effectively perform custody, by virtue of having control over client assets, are appropriately captured, while those that merely provide supporting infrastructure or non-custodial services remain out of scope.

4. **For an entity ("Entity A") within a corporate group that safekeeps private keys whereby personnel from different group entities ("Group Entities") may also be involved in safekeeping the private key and/or signing a VA transaction:**

   (i) Should the Group Entities be required or not be required to obtain VA custodian service provider licences? Please explain your comments.

Ripple is of the view that the requirement to obtain a VA custodian service licence should depend on the function being performed by the entity, regardless of its position within the group structure.

If a Group Entity holds control over the end user's private keys, whether through access or transaction approval, it should be considered as providing custody and therefore be required to obtain a licence. In contrast, if the Group Entity only provides supporting infrastructure without any ability to access or approve transactions, it should not be required to hold a licence.

Applicants should promptly disclose in their licence applications with the SFC on how their custody functions are carried out across the group, including which entities and personnel are involved, to avoid any ambiguity and ensure appropriate supervision.

   (ii) If the answer to (i) is yes, please provide your comments on the types of personnel within the Group Entities which should obtain an individual licence ("Relevant Personnel"). What steps of the transactions should trigger this licensing requirement?

As the term "Relevant Personnel" and the concept of an individual licence are not defined in the Custody Consultation or under current Hong Kong legislation, we request that the SFC provide further clarity before introducing such a framework.

While we acknowledge that the concept of licensed representatives exists under the SFO, it is not currently applicable to custody services. Ripple believes that the regulatory framework should prioritise licensing of legal entities over individuals. A licensing regime for individuals employed within licensed entities would be unusual, given that these individuals typically act in their professional capacity on behalf of the entity rather than as independent service providers.

If an individual licensing framework is considered, the SFC should clarify the scope of responsibilities assigned to licensed personnel and whether personal liability may arise. Such individuals should hold significant responsibilities, similar to Money Laundering Reporting Officers, to ensure accountability is commensurate with their role in safeguarding client assets.

The SFC should also consider the practical and operational challenges of administering such a regime. For example, how would licences be maintained or transferred when individuals move between licensed entities? Most regulatory regimes provide entity-level approvals for key personnel, rather than maintaining separate individual licences. Implementing an individual licensing framework would therefore require substantial additional consideration regarding roles, liability, and oversight.

If the SFC proceeds with defining "Relevant Personnel," we believe that any licensing requirement should be triggered when individuals are directly involved in the following functions related to virtual asset custody:

- Private Key Generation and Management: Personnel who generate, store, or manage private keys that enable access to client assets.
- Authorization or Execution of Transactions: Personnel who can unilaterally or jointly approve, sign, or initiate transactions involving client virtual assets.
- Access to Client Wallets: Personnel with technical or operational access to wallets holding client assets, even if they do not actively process transactions.
- Transaction Monitoring and Recovery: Individuals who have the ability to freeze, recover, or reverse client transactions or asset movements.
- Custody-specific Risk Management Roles: Personnel responsible for designing, implementing, or maintaining key controls directly related to safeguarding client assets.

That being said, we strongly urge the SFC to weigh these considerations carefully to ensure any licensing obligations are proportionate, targeted, and do not impose unnecessary administrative burdens on licensed entities or their personnel.

(iii) If the answer to (i) is no, please provide your comments on whether the Relevant Personnel of the Group Entities should be required to be accredited to Entity A (assuming Entity A will obtain a VA custodian

service provider licence) and also obtain an individual licence. Please explain your comments.

As outlined in our response to Question 4 (ii), Ripple does not believe that a specific licensing or approval requirement is needed for individuals involved in VA custodian services within the licensed entity. Under the SFO, licensed entities must seek approval for senior individuals who act as Responsible Officers. This approach, which focuses on oversight of key functions and business lines, should be sufficient to ensure proper governance in VA custody operations.

As noted in our response to Question 4 (i), the group structure of the applicant should be clearly outlined in the licence application, along with a description of which entities and individuals perform custody-related functions. If personnel of Group Entities are directly involved in controlling private keys, those entities should be licensed as VA custodian service providers.

That said, we would support a practical proposal allowing for the accreditation of personnel from Group Entities to the licensed entity, provided that legal responsibility remains fully with the licensed entity. We do not support a broader individual licensing regime.

5. **What are your comments on the proposed exemptions? Would there be other exemptions that are necessary?**

Ripple supports the proposed exemption for entities where the safekeeping of client virtual assets is wholly incidental to the principal business of providing the licensed VA service. As noted in our answer to Question 2, exemptions for ancillary services are common practice in most regulatory frameworks. Given the Custody Consultation's alignment with the principle of "same activity, same risk, same regulation," we agree that this exemption is consistent with the approach taken under the equivalent SFC securities regulatory framework.[7]

However, we have concerns about the proposal to require licensees to hold client virtual assets exclusively with licensed or registered VA custodians in Hong Kong. This requirement, while well-intentioned, may introduce unintended risks for both clients and licensees. This is especially pertinent in the early stages of implementation when the number of licensed custodians in Hong Kong may be limited.

In such a scenario, there is a risk of excessive concentration among a small pool of custodians, which could create systemic vulnerabilities and reduce overall market resilience. While similar custody localisation requirements exist in other jurisdictions, such as the EU's MiCA, which requires virtual assets to be

[7] See https://www.sfc.hk/en/Regulatory-functions/Intermediaries/Licensing/Do-you-need-a-licence-or-registration?utm_source, *SFC Do you need a licence or registration?*

held with licensed Crypto-Asset Service Providers (CASPs)[8] these markets typically benefit from a broader and more mature pool of regulated custodians, thereby reducing the associated concentration risks.

We therefore urge the SFC to consider a more flexible approach. For example, licensees could be permitted to use overseas custodians that are regulated under equivalent regimes, provided that:

- They demonstrate that the selected custodian meets appropriate risk and operational standards; and
- The licensee remains contractually liable to the client for any loss of assets resulting from the actions or failures of the custodian.

This approach would better balance investor protection with operational flexibility, especially in a global market like Hong Kong.

Finally, we encourage the FSTB and SFC to take a broader market-level view and assess the interconnectedness of providers, the risk of single points of failure, and the long-term impact on innovation and service quality. The regulatory framework should aim not only to safeguard client assets but also to ensure that clients have access to the best possible custody solutions, whether local or international, as long as they meet equivalent standards of safety and oversight.

6. Do you have any comments on the proposed scope of allowed activities?

Ripple supports the proposed scope of allowed activities outlined in the Custody Consultation. As noted in our previous responses in Question 1 and Question 4, we believe that the key determinant of whether custody services are being provided should be based on whether the entity holds control over the private keys or virtual asset wallet.

We would also welcome further guidance from the SFC to assist market participants in making this determination with greater clarity and consistency.

7. Do you have any comments on the types of VAs that a VA custodian service provider should not provide custodian services for?

We support the SFC's proposal not to impose restrictions on the types of virtual assets permitted to be held under custody. Under existing securities regulatory frameworks in Hong Kong, custodians are not typically limited by asset class, and we believe the same principle should apply to VA custodians. Instead, regulatory focus should be placed on the competence, safeguards, and risk management capabilities of the VA custodian service provider, as noted in the Custody Consultation.

[8] See https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32023R1114, *Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937.*

8. **Do you have any comments on the scope of individual licence and engagement as relevant individuals for providing VA custodian service?**

As noted in our response to Question 4 (ii), we consider the implementation of an individual licensing regime to be problematic. However, we would support a framework that requires regulatory approval for key individuals, such as Responsible Officers, who have oversight of the VA custody function.

This approach aligns with existing practices under the SFO, where individuals are approved in connection with a specific role at a licensed entity rather than being granted a portable individual licence. Since these individuals are not performing the regulated activity on their own behalf but on behalf of the licensed entity, an approval regime for Responsible Officers is more appropriate and proportionate.

9. **Should individuals with authority to approve or sign VA transactions be required to obtain a licence or be engaged as relevant individuals? If yes, what steps of the transactions should trigger this requirement?**

Ripple does not believe that individuals should be required to obtain a licence, as stated in our responses to Question 4 (ii) and Question 8. These individuals typically act in their capacity as employees of a licensed entity and do not perform the regulated activity on their own behalf. As such, licensing the legal entity and requiring approval for key personnel (such as Responsible Officers) is a more appropriate and proportionate approach.

If a licensing or approval mechanism is introduced, it should only apply to individuals who have significant control over critical functions such as private key generation, transaction authorisation, and operational access to client wallets. Even then, this should be structured as role-specific approval within the entity, rather than a portable individual license.

10. **Do you think that licensed VA custodian service providers should be subject to the similar financial requirements as licensed corporations carrying on Type 13 regulated activity of providing depositary services for a relevant CIS? Do you think additional resources calibrated with scale of business or operations are required?**

Ripple broadly supports the proposal to apply financial requirements similar to those for Type 13 regulated activity, given the comparable nature and risk profile of the services. However, we believe that further tailoring is needed to address the specific risks associated with VA custody, particularly in areas such as cybersecurity and liquidity.

A one-size-fits-all approach may not adequately reflect the operational realities of VA custodians, which often vary significantly in scale, technology stack, and client exposure. We recommend that the SFC incorporate risk-based

adjustments that reflect the size and complexity of a provider's operations, ensuring that requirements remain proportionate and effective.

11. Should other regulatory requirements be added to mitigate the risks of VA custodian services?

In addition to the requirements set out in Section 2.39 of the Custody Consultation, Ripple believes a comprehensive regulatory framework should focus on the following areas to ensure client assets are appropriately safeguarded:

- Access controls: Regulatory expectations should cover internal controls such as multi-signature or multi-party approval mechanisms, and a clear segregation of duties, particularly between private key generation and transaction execution functions.
- Hot and cold wallet storage: We note that for Platform Operators, the SFC currently sets a 98/2 cold/hot wallet asset ratio. While we support the general requirements in this area, we believe that the onus should be on the VA custody service provider to justify to the SFC regarding their cold/hot wallet ratio, rather than aligning to the prescribed thresholds. This would allow for more suitable tailoring to different types of business models, where a 98/2 ratio may not be entirely necessary or workable.
- Asset Segregation: Regulations should ensure that client assets are held in trust, segregated from the licensee's own assets, and clearly identified as client property to protect against third-party creditor claims.
- Private Key Management and Reconciliation: We encourage the SFC to issue guidance on expected standards for private key management, backup, and regular reconciliation to strengthen operational resilience.

12. What are your comments on the proposed transitional arrangement for the licensing regime for VA custodian service providers?

Ripple supports the proposal to grant open-ended licenses or registrations, as this is preferable to the earlier suggestion of biennial renewal. However, we are concerned that the absence of a transitional period may place unnecessary strain on existing providers, particularly those needing time to reallocate resources and align with new requirements. This could result in otherwise compliant firms being unable to obtain a licence due to timing constraints. It also risks placing an unnecessary burden on the SFC's own resources for authorisation in the event of a significant number of applicants to consider.

We recommend that the SFC revisit its earlier proposal from the OTC Consultation to allow for a six-month transitional period, subject to providers submitting their license applications within the first three months. This would support a smoother implementation and reduce disruption to custodial services.

13. Based on the "user-pays" principle, do you have any comments on requiring higher licensing application fees and annual fees for a VA custodian service provider licensed by or registered with the SFC (such as requiring fees in the same amounts as those for Type 3 regulated activity under the SFO or other higher amounts)?

Ripple supports aligning licensing and annual fees with existing models under the SFO, such as the current fee structure applicable for Type 3 regulated activity. We do not believe that the technical components of VA custody alone could justify significantly higher fees compared to those applied to equivalent securities-related services.

14. Do you agree that, for the purpose of protecting the investing public, persons not licensed by or registered with the SFC should not be allowed to actively market VA custodian services to the public of Hong Kong?

Ripple is broadly supportive of the proposal as a means to safeguard investors. However, we believe further clarity is needed on what constitutes "actively marketing to the public of Hong Kong" to ensure that entities do not inadvertently breach regulatory requirements. In particular, it would be helpful to confirm whether the SFC intends to adopt the same interpretation of "actively marketing" as currently applied under the SFO and existing SFC guidance.

Given the inherently cross-border nature of the VA market, we also encourage the SFC to consider establishing a recognition regime for VA custodian licences issued in jurisdictions with comparable regulatory standards. Recognised licence holders could then be exempt from local marketing restrictions, subject to appropriate investor safeguards. This would promote regulatory alignment while ensuring continued access to high-quality, globally trusted custodial services.

15. Do you agree that the SFC and the HKMA should be provided with the proposed powers?

Ripple is supportive of the proposal to provide the SFC and the HKMA with the necessary supervisory and enforcement powers to effectively implement and oversee the proposed licensing regime.

16. Do you agree with the proposed sanctions, which are comparable to those under the existing regulatory regimes for VATPs?

Ripple supports the proposed sanctions framework, which is broadly consistent with existing enforcement provisions under the VATP regime.

17. Do you agree that a review tribunal mechanism should be put in place to handle appeals against the decisions to be made by the SFC or the HKMA in implementing the licensing regime?

Ripple supports the establishment of a review tribunal mechanism. Providing a clear and independent avenue for appeal is an important safeguard for procedural fairness and will help enhance confidence in the regulatory regime.