



SUMMARY OF PRIVATE SECTOR CONSULTATION AND FEEDBACK STATEMENT
Statement of Principles - Conduct of Virtual Asset Services

No.	Section	Comments from the Private Sector	Authority's Response	Consequent Amendments to the Proposed Measure
GENERAL COMMENTS				
1.		We support a technology neutral approach and would prefer in principle that virtual asset service providers not be singled out. In many cases, what is being asked of virtual asset services providers is out of line with requirements for other regulated persons.	The Authority has considered the comment in light of the objective of the Statement of Principles as a broad framework and guidance for the conduct of virtual asset activities. Where necessary, the Authority has made amendments as detailed in each of the sections below.	Please refer to the each of the sections below.
SECTION-SPECIFIC COMMENTS				
2.	6.2 (Principle 2: Fair treatment of customers)	<p>The requirement for the "utmost standard of customer care" is too high to be practical, as it effectively sets the standard at "perfect". By way of comparison, the FCA Principles require: "A firm must pay due regard to the interests of its customers and treat them fairly."</p> <p>The requirement should take account of the nature of the customer, as is common in other jurisdictions which distinguish between retail and professional clients. We believe this can be remedied as follows: "...fairness of treatment to customers taking into account the nature of the customer (for example, whether the</p>	The Authority has considered the suggestion and updated the Section to provide further clarity. Consideration of the nature of the customer is inherent in the need for virtual asset service providers to pay due regard to the interests of their customers and to communicate in manner that is accurate and understandable to the customers.	<p>Section 6.2 has been amended to read as follows:</p> <p>"Persons providing virtual asset services must pay due regard to the interests of their customers and treat them fairly. All communications to customers should be accurate and in a form that the customers can understand; and all customer complaints or issues dealt with in a timely and consistent manner."</p>

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		customer is retail or professional). All communications...".		
3.	6.3 (Principle 3: Protection of Customer Data)	Ensuring the "maximum well-being of all data" is an unrealistic standard and beyond the requirements of the Data Protection Law, which requires only that: "Appropriate technical and organizational measures shall be taken against unauthorized or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data."	The Authority has considered the suggestion and updated the Section to remove "maximum well-being of all data". The key elements of data protection are updated to include maintenance of personal data.	Section 6.3 has been amended to read as follows: "Persons providing virtual asset services must protect the personal data of clients by way of adequate storage, data protection, maintenance, proper record keeping and other appropriate measures."
4.	6.5 (Principle 5: Maintenance of Security Systems)	The requirement to "ensure maximum security against cyber threats" is a standard too high, as it effectively requires "all possible" steps to be taken, rather than "appropriate" or "due" steps. Bear in mind that cybersecurity is a cost and there is always a practical limit to the amount of steps that can be taken.	The Authority has considered the suggestion and made changes to the Section, maintaining the need to ensure effective protection against cyber threats.	Section 6.5 has been amended to read as follows: "Persons providing virtual asset services should ensure that appropriate systems and security access protocols are maintained to effectively guard against cyber threats; and all employees, including senior officers and board of directors must be fully aware of relevant cyber security threats."
5.	6.6 (Principle 6: Due Skill, Care and Diligence)	The requirement should take account of the nature of the customer, as is common in other jurisdictions which distinguish between retail and professional clients. We believe this can be remedied as follows:	The Authority believes that consideration of the nature of the customer (e.g. whether professional or retail) is inherent in the requirement of the Principle to consider risks to customers; and, more generally, to act with due skill, care and diligence.	No changes are required.

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		<p>"... consider risks to its customers taking into account the nature of the customer (for example, whether the customer is retail or professional) and the reputation of the Cayman Islands..."</p>		
6.	<p>6.7 (Principle 7: Prevention, Detection and Disclosure of Financial Crimes)</p>	<p>We believe that Principle 7 should be deleted as it is superfluous, given that persons subject to the AML Regulations are already bound to comply, as are all persons already bound to comply with other Acts relating to the combating of money laundering, terrorist financing and proliferation financing (e.g. the Proceeds of Crime Act, Terrorism Act and Proliferation Financing (Prohibition) Act and targeted financial sanctions. There is no reason to distinguish virtual asset service providers from other regulated persons – they already need to comply and this Principle suggests that compliance may be optional for others.</p>	<p>The Authority believes that the Principle should be upheld to provide general guidance on expectation in this area. The Authority has, for clarity, updated the Principle for the need to have appropriate systems, policies, processes and procedures to ensure compliance with the Acts/ Regulations.</p>	<p>Section 6.7 has been amended to read as follows:</p> <p>"6.7 Persons engaged in virtual asset services should have appropriate systems, policies, processes and procedures to ensure compliance with the Anti-Money Laundering Regulations (as revised) and other Acts relating to the combating of money laundering, terrorist financing and proliferation financing."</p>
7.	<p>6.10 (Principle 10: Full Disclosure)</p>	<p>Remove comma for clarity: "... (c) the amount, value or arrangements for the payment or provision, of commissions or other inducements..."</p>	<p>The Authority considered the suggestion and updated accordingly. In addition:</p> <ol style="list-style-type: none"> 1. Subsection (d) has been updated to provide for disclosure of third-party arrangements where applicable. 2. Subsection (b) has been updated as suggested to provide further clarity with regards to disclosure of associated risks. 	<p>Section 6.10 has been amended to read as follows:</p> <p>" Persons engaged in virtual asset services must provide full and proper disclosure of their operations including disclosure of (a) the capacity they are acting in (in relation to a relevant transaction), (b) risks associated with the virtual asset service or transaction (c) the quantity, value, or arrangements for the payment or provision of commissions or other inducements and, (d) where applicable, provisions</p>

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				for custodial or other third-party arrangements."
8.	6.12 (Principle 12: Compliance with Regulatory Acts)	We believe that Principle 12 should be deleted as it is superfluous, given that persons subject to regulatory Acts are already bound to comply. There is no reason to require that virtual asset service providers "must continuously assess their business operations, activities and management systems to ensure compliance" any more than any other regulated person – they simply need to comply.	The Authority believes that the Principle should be upheld to provide general guidance on expectation in this area. For clarity, it has been updated to indicate the need to have appropriate systems, policies, processes and procedures to ensure compliance with regulatory Acts.	Section 6.12 has been amended to read as follows: "6.12. Persons engaged in virtual asset services should have appropriate systems, policies, processes and procedures to ensure compliance with regulatory Acts."