



Hong Kong Police Arrest Suspects in JPEX Scandal

The Hong Kong police have reportedly arrested 18 people allegedly involved in suspected fraud on the part of unlicensed crypto exchange, JPEX, allegedly involving more than 2,000 victims and losses of over HK\$1.5 billion, although other individuals believed to be involved have reportedly fled Hong Kong.¹ Hong Kong's Securities and Futures Commission (the **SFC**) started looking into JPEX's false claims to be regulated and its conduct of prohibited activities in March 2022, and put JPEX on the SFC alert list in July 2022 when JPEX failed to respond to its requests for information.

JPEX hit the headlines in September 2023 when the SFC issued two public announcements warning investors that JPEX's claims to be regulated are false, and that some of its activities, including offering high returns on various virtual asset products, are prohibited under the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (the **AMLO**). It added that it had referred the matter to the police due to suspected fraud.

The SFC's public warnings about JPEX can be viewed at: [Warning Statement on Unregulated Virtual Asset Trading Platform](#) and [Statement on JPEX](#).

SFC Warning Statement regarding JPEX of 13 September 2023

The SFC's [Warning Statement on Unregulated Virtual Asset Trading Platform](#) warned investors that neither JPEX, nor any of its group companies, has been, or applied to be, licensed as a virtual asset trading platform (**VATP**) (i.e. a regulated crypto trading exchange), contrary to representations made by JPEX. The statement also highlighted various other irregular activities.

Falsely representing itself as a licensed virtual asset trading platform

JPEX claims on its website and in multiple advertisements to be "a licensed and recognised platform to facilitate the trading of digital asset and virtual currency". However, its claims to be licensed to operate a virtual asset trading platform by various overseas regulators are untrue. While JPEX is registered as a business entity in various jurisdictions, these registrations do not allow it to conduct virtual asset trading services. JPEX also falsely claims on its website to be regulated by the Virtual Assets Regulatory Authority of Dubai (**VARA**) and to be subject to VARA's "stricter regulatory standards". Although JPEX does have its headquarters in Dubai, it is not on VARA's list of licensed virtual asset service providers.

JPEX's conduct of prohibited activities: providing returns on virtual assets

JPEX allegedly offered unusually high returns on virtual asset “deposits”, “savings” and “earnings” products, reportedly marketing its savings product as providing annual interest or return of 21% for ETH, 20% for BTC and 19% for USDT. If proven, these activities would put JPEX in breach of Paragraph 7.26(b) of the [Guidelines for Virtual Asset Trading Platform Operators](#) which prohibits even licensed crypto exchange operators from using clients' virtual assets to generate returns for their clients or any third party.

The SFC also noted its receipt of, and media reports of, complaints from retail investors that they could not withdraw their virtual assets from their JPEX accounts, or that their account balances had been reduced or altered. There have also been media reports that JPEX increased its fees for handling withdrawals from 995 to 999 Tether (USDT) tokens for every 1,000 USDT withdrawn.²

Misleading advertising by influencers and OTC shops

According to the SFC, social media influencers, “key opinion leaders” (**KOLs**) and over-the-counter virtual asset money changers (**OTC** shops), actively promoted JPEX's products and services to the Hong Kong public. They also made false or misleading statements on social media suggesting that JPEX had applied for a VATP licence in Hong Kong.

The SFC confirmed that it has asked KOLs and OTC shops involved in promoting JPEX and its products and services to stop these activities.

False advertisement of cooperation with a Hong Kong listed company

JPEX also claimed on its website to have a business cooperation with a Hong Kong-listed company when that cooperation was actually terminated in 2022. The listed company did not make any investments.

SFC statement on JPEX of 29 September 2023

The SFC's [Statement on JPEX](#) of 29 September reiterated its suspicions about JPEX and criticised JPEX's publication of confidential correspondence between it and the SFC's Enforcement Division on its website, in breach of the secrecy and confidentiality provisions of the Securities and Futures Ordinance (**SFO**) and the AMLO. Section 378 of the SFO and section 76B of the AMLO require persons assisting the SFC in a statutory investigation or enquiry to keep information confidential.

VATP regulatory regime under the SFO and AMLO

In Hong Kong, the operators of centralised VATPs are regulated by the SFC under the SFO, where the virtual assets traded are “securities” within the SFO's definition of securities, and under the AMLO where the virtual assets traded are not securities. Operators of VATPs trading virtual assets that are securities must be licensed under the SFO for regulated activities Type 1 (dealing in securities) and Type 7 (providing automated trading services). Operators of VATPs trading non-security virtual assets are required to be licensed as virtual asset service providers under the AMLO, although under the new licensing regime's transitional arrangements, virtual asset exchanges that had substantial operations in Hong Kong before 1 June 2023, can operate without a licence until 31 May 2024, but must apply for a licence on or before 29 February 2024 in order to operate from 1 June 2024.

The SFC will only license trading platform operators that it considers to be “fit and proper” to operate a virtual asset exchange. Under [s53ZRK of the AMLO](#), when determining whether an applicant is “fit and proper”, the SFC will consider the services and products currently provided by the applicant, whether its activities comply with the regulatory requirements, and whether any non-compliance could have been reasonably avoided. The SFC may grant a licence to entities that have breached the regulatory requirements if the applicant demonstrates genuine remorse and has concrete plans to rectify non-compliant activities such as unwinding impermissible transactions. Consistent violations and blatant ignorance of the regulations and continued promotion of non-compliant activities are likely to result in applicants not being considered “fit and proper” to be a licensed VATP.

For further details of the VATP regulatory regime under the SFO and the AMLO, please see Charltons' newsletters:

- [Hong Kong Licensing Regime for Virtual Asset Exchanges to Take Effect on 1 March 2023](#) on the VATP licensing regime framework under the AMLO implemented on 1 July 2023;

- [Hong Kong SFC Finalises Regulation of Virtual Asset Trading Platforms](#) on the detailed regulatory provisions applicable to licensed exchanges; and
- [SFC Circular on Implementing New Licensing Regime for Virtual Asset Trading Platform Operators](#) relating to the new SFC guidance materials on the new regime.

Offences under the AMLO and SFC enforcement powers

Offence involving fraudulent or deceptive devices etc. in transactions in virtual assets

It is an offence under [s53ZRF of the AMLO](#) for a person to directly or indirectly employ any device, scheme or artifice with intent to defraud or deceive or engage in any act, practice or course of business that is fraudulent or deceptive or would operate as a fraud or deception in a transaction involving virtual assets. On conviction, the offence carries a maximum fine of HK\$10 million and up to 10 years' imprisonment.

Offence to fraudulently or recklessly induce others to invest in virtual assets

[Section 53ZRG of the AMLO](#) makes it an offence for a person to make a fraudulent or reckless misrepresentation to induce another person to enter into, or offer to enter into, an agreement to acquire, dispose of, subscribe for or underwrite virtual assets. A fraudulent misrepresentation is a statement or forecast that the person making it knows to be false or misleading. The offence carries a maximum fine of HK\$10 million and up to 7 years' imprisonment.

Section 53ZTH of the AMLO

[Section 53ZTH of the AMLO](#) allows the SFC to take action against any persons who are knowingly or unknowingly involved in breaching the provisions of the ordinance. The SFC has said that it will enforce the VATP regime strictly.

SFC investor warning

The SFC's statements warned investors of the risks of trading virtual assets on unregulated crypto exchanges, noting that they risk losing all their virtual assets if the exchange ceases operation, collapses, is hacked or otherwise suffers a misappropriation of assets. It also highlighted the difficulty of seeking recourse against, and obtaining legal remedies from, exchanges that have no nexus with Hong Kong. The SFC advises investors to check crypto exchanges' licensing status on the SFC's [list of licensed virtual asset trading platforms](#).

The SFC also warned investors against relying on investment advice posted on social media and influencers' instant messaging applications given that influencers are often paid promoters rather than investment professionals.

[1] AP News, *Hong Kong and Macao police arrest 4 more people linked to JPEX cryptocurrency platform* <https://apnews.com/article/jpex-cryptocurrency-fraud-scam-arrests-c556b6856d9c851dfee194c6ebf71d4f>

[2] South China Morning Post, *Hong Kong JPEX scandal: police seek Interpol's help to freeze 'unusual' outflow of cryptocurrency just after regulator sounded alarm*, <https://www.scmp.com/news/hong-kong/law-and-crime/article/3235420/hong-kong-jpex-scandal-users-forced-accept-dividend-plan-offered-cryptocurrency-platform-centre#:~:text=JPEX%20has%20since%20been%20charging,equal%20to%20about%20HK%247.82>.

This newsletter is for information purposes only

Its contents do not constitute legal advice and it should not be regarded as a substitute for detailed advice in individual cases. Transmission of this information is not intended to create and receipt does not constitute a lawyer-client relationship between Charltons and the user or browser. Charltons is not responsible for any third party content which can be accessed through the website.

If you do not wish to receive this newsletter please let us know by emailing us at unsubscribe@charltonslaw.com

CHARLTONS
易周律師行

Hong Kong Office

Dominion Centre 12th Floor
43-59 Queen's Road East Hong Kong

enquiries@charltonslaw.com

www.charltonslaw.com
Tel: + (852) 2905 7888
Fax: + (852) 2854 9596