

March 9, 2018

Via Electronic Submission

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Parliamentary Secretary for Financial Services, Digital Economy and Innovation
Office of the Prime Minister
Malta

Re: Comments of the Chamber of Digital Commerce on Office of the Prime Minister Consultation Document: Malta – A Leader in DLT Regulation

Dear Parliamentary Secretary:

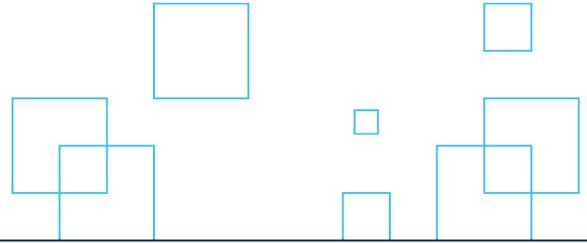
The Chamber of Digital Commerce (the “**Chamber**”) welcomes the opportunity to submit these comments in response to the Office of the Prime Minister of Malta’s Consultation Document titled, “Malta – A Leader in DLT Regulation” (the “**Consultation Document**”). The Chamber is the world’s largest trade association representing an international membership of participants in the digital asset and blockchain industry. Our mission is to promote the acceptance and use of digital assets and blockchain-based technologies, and we are supported by a diverse membership that represents the industry globally.

Through education, advocacy, and close coordination with policymakers, regulatory agencies, and industry across various jurisdictions, our goal is to develop a pro-growth legal environment that fosters innovation, job creation, and investment. We represent the world’s leading innovators, operators, and investors in the digital asset and blockchain technology ecosystem, including leading edge start-ups, software companies, global IT consultancies, financial institutions, insurance companies, law firms and investment firms.¹ Consequently, the Chamber and its members have a significant interest in the Consultation Document.

The Chamber understands that while many new financial technologies (“**FinTech**”) are emerging, blockchain and other distributed ledger technologies (“**DLT**”) impact governments and regulators throughout the globe. DLT applications offer a wide variety of practical and readily applicable opportunities for many industries.

We commend the Office of the Prime Minister for developing a framework that aims to provide support and guidance to businesses and individuals operating in this new

¹ A complete list of our membership is available online at <http://digitalchamber.org/membership.html>.



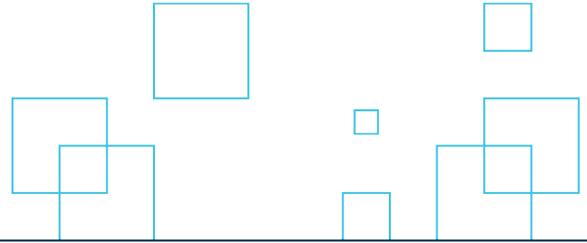
industry. The Chamber supports legal and regulatory clarity around DLT and related smart contract technologies. Defined contours are needed to combat regulatory overreach, which is a potential issue for DLT in many jurisdictions at this time. Onerous regulatory requirements present obstacles to industry growth, as DLT solutions develop and seek to enter the marketplace. A significant impediment to the FinTech industry is the risk of burdensome regulations being imposed too early, which would hinder future innovation, discourage further investment in innovation, and/or restrict the utilization and incorporation of DLT into the financial services and other industries.

DLT raises many novel legal issues for lawmakers and regulators. For example, decentralized technologies may operate based on automated protocols and lack a centralized governor. These issues must be carefully studied before imposing rules that may not be well-suited for their intended purpose. Lawmakers and regulators must not act too quickly by imposing regulations that risk hindering the efficiencies and promise that such technologies may deliver.

Among the topics raised in the proposed framework, the Chamber supports a principles-based approach to reviewing the characteristics of the so-called “Technology Arrangements”. Each DLT project is unique and prescriptive requirements are often ill-fit for these innovative technologies. Additionally, the Chamber believes that an opt-in, voluntary regime is preferable to a mandatory and prescriptive regime. Further, the Chamber urges the MDIA to be mindful when formulating the list of qualities Technology Arrangements applying for certification (a) will be required to possess, and (b) which will be assessed as part of the certification process in order to encourage, and not stifle, business in these areas. These criteria should also take into account the unique attributes of DLT arrangements.

The Chamber generally encourages regulators to adopt a “do no harm” approach to regulation to allow DLT to develop and companies to innovate within a principles based rather than prescriptive environment. Additionally, as a matter of principle, MDIA should regulate by function rather than by technology. In other words, the MDIA should promote a regulatory culture that addresses function (*e.g.*, financial instrument trading) rather than form (*e.g.*, hard/soft copy contract vs. digital ledger entry). The MDIA should take these principles into account when formulating a list of qualities required for assessment and certification.

The Chamber encourages the MDIA to facilitate the development and implementation of FinTech and, specifically, DLT, by supporting regulatory harmony. Consistency in regulatory treatment will be an important factor in industry growth. The MDIA should consider the various structures and levels of regulator-industry engagement currently in



place in other jurisdictions when looking to develop its own initiatives and lines of communication between regulators and members of the industry.

Finally, subjecting Technology Arrangements that are already supervised by other agencies to certification by the MDIA may lead to duplicative certifications. The Chamber supports regulatory regimes only to the extent such obligations clarify the regulatory environment and do not pose additional or overlapping burdens and potential regulatory conflicts. The potential for multiple oversight authorities to certify Technology Arrangements and impose requirements may hinder development of the industry and evolution of the technologies.

Thank you for your consideration.

Respectfully submitted,

Perianne Boring
Founder and President

Matthew Roszak
Chairman