

**Industry Comments on
Anguilla Utility Token Exchange Regulations**

Date rec'd	Revised Guidelines Sections	Comments	DLT Advisory Committee Response
17/3/2019	General	<p><u>Levy Regulations</u></p> <ul style="list-style-type: none"> • The levy proposed relates to net income. A significant risk to using "net income" is that the Exchange can structure its operations to shift profits to related entities. There should be some provision that restricts their ability to do so or that alleviates the impact of doing so on the levy payable. <p><u>AML/CFT Regs.</u></p> <ul style="list-style-type: none"> • Why does the amount deposited for Crypto not appear to affect the nature of the information required, i.e. the proposal is to have no limit on Crypto deposits while requiring only limited identification information. • As well, it is hard to see how identification information is credible without a copy of a passport or other acceptable documentation being provided. Please explain. • Also should source of funds be required for deposits of fiat or Crypto starting at least at \$25,000? • Will the information collected be required to be reviewed by the Exchange or its acceptable contracted third party, but this is not clear in the regulations. 	<p>Section 2 of Levy Regulations will be amended to measure the levy on gross income instead of net income.</p> <p>The nature of information required for certain transaction values is to be revised.</p> <p>Agreed. This will be considered in revisions.</p> <p>Agreed. This will be included in the information required of customers with transaction values that fall within section 2(d).</p> <p>This will be clarified in guidance to be published.</p>

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		<p><u>Application Process Regulations</u></p> <ul style="list-style-type: none"> The fees appear low as proposed considering that the Commission will need to pay a third party to review the applications and have oversight of the Exchange. Also we don't want to attract unsophisticated and under-financed applicants. It should also be make clear that the applicant will be required to pay for any technical reviews of its proposed surveillance system and AML/CFT process and its trading system. 	<p>Revisions to the fee structure in schedule 3 are being considered.</p>
15/4/2019	General	<p><u>Levy Regs.</u></p> <ul style="list-style-type: none"> Section 3- There will be an element of administrative work required by the Commission to verify the amount of the levy being remitted is accurate. It is proposed that the Inland Revenue be remitted 0.2% and the balance of 0.05% be retained by the Commission to cover the administrative function, as well as to provide resources for the development of in-house competencies in the Blockchain / DLT sector. This may impact the manner in which the levy is ultimately remitted. <p><u>AML/CFT Regs.</u></p> <ul style="list-style-type: none"> Section 2(b) "Country of Residence" - Consider for any subsequent Guidance or General Best Practice Statement: That a client must disclose whether they are ordinarily resident in another jurisdiction. This can be captured during the client on-boarding process. Section 2(d) "Letter of reference from a licensed financial institution" - This may be revised and worded as an optional 	<p>Section 2 of Levy Regulations will be amended to measure the levy on gross income instead of net income.</p> <p>This will be clarified in guidance to be published.</p> <p>Agreed. This will be included in the information required of customers with</p>

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		<p>provision. References are becoming increasingly difficult to obtain from banks and other licensed institutions.</p> <ul style="list-style-type: none"> • Section 2(e) - What is the treatment for a PEP? Perhaps this can also be captured by Guidance. • Section 3(1) - Do we have specific legislative provisions or other documents setting out the expectations for security and data integrity of records? <p><u>Application process</u></p> <ul style="list-style-type: none"> • Schedule 1 Q25 - An additional point may be included to set out the location of the servers (primary and back-up) upon which the Exchange's information will be stored. You may wish to include after question 28 or subsumed within disclosures to be made in the Business Plan. • Schedule 4 (Transfer of Shares) - I propose \$100 per application. • Schedule 4 - Application fee should be implemented. I propose \$100 per application. • Schedule 4 - Where a transfer effects a change of ownership greater than 50% to a new beneficial owner, it may be prudent for such a transfer to trigger a requirement to file an updated Business Plan. 	<p>transaction values that fall within section 2(e).</p> <p>This will be clarified in guidance to be published.</p> <p>At this time there are no specific legislative provisions for the expectations of the licensees in relation to the security and data integrity of records. However, a document will be published in the near future to address this.</p> <p>Question 29(d) of schedule 1 will be amended to ensure that applicants include details in the business plan on the location of its primary and back-up servers.</p> <p>Fee schedule to be amended to include a fee of USD\$1,000.</p> <p>Fee schedule to be amended to include a fee of USD\$1,000.</p> <p>Agreed. Schedule 4 will be amended to include this.</p>

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		<ul style="list-style-type: none"> Schedule 5 - A post-licensing approval should trigger an application fee. I propose \$250 per director / manager. 	Fee schedule to be amended to include a fee of USD\$500.
23/4/2019		<p><u>Levy Regs.</u></p> <ul style="list-style-type: none"> Crosscheck to see if this is already mentioned in the Act. (25% of revenue in the previous quarter) <p><u>AML/CFT Regs.</u></p> <ul style="list-style-type: none"> In definition of "user" delete "for the purposes of etc." <p>define or elaborate on "daily limits"</p> <p>"subscriber"? (perhaps sticking to "user")</p> <p>Is the licensee to be made subject to AML requirements?)</p> <p><u>Application Process</u> (rec'd 8 May 2019)</p> <ul style="list-style-type: none"> Where are the enabling powers for the approval of the appointment of a director, officer or senior manager and the approval of issue or transfer of shares or other interests 	<p>Section 41(2) of the AUTO Exchange Act reads:</p> <p><i>"The levy payable pursuant to subsection (1) shall be payable quarterly, on such bases and at such rate or rates as may be prescribed by regulations from time to time, as measured in dollars."</i></p> <p>Will remain as is.</p> <p>The Committee is of the opinion that "daily limit" is sufficiently defined.</p> <p>"Subscriber" will be replaced with "user"</p> <p>Yes, the licensee will be subjected to AML requirements.</p> <p>Exchange Act will be amended to provide enabling powers for the approval of the appointment of a director or senior officer and the approval of issue or transfer of shares or other interest.</p>

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		<ul style="list-style-type: none"> • Section 2 – need to add a condition to each licence so that e.g. changes to the application, the business plan, directors, officers, senior managers, and controlling shareholders must be notified forthwith. If not, provide powers for this in Exchange Act • I think you can do this indirectly by requiring that directors, officers, senior managers, etc. be specified in the application, with the information required in schedule 5. <p>I make no further comments on the Regulations at this stage, but there are some issues to address in due course - capital and insurance requirements (or expectations); the expected competencies of a board and senior management; systems and controls for financial crime and AML, cyber-attack, compliance generally, business continuity, integrity & security of data, and record keeping; disclosure of business model, risks, and conflicts to those using or trading on the exchange; other services like custody, clearing, and settlement.</p>	<p>Exchange Act will be amended to require the notification of material changes and events to the Commission, unless prior approval is expressly required.</p> <p>See comment above.</p> <p>This will be clarified in guidance to be published.</p>
10/5/2019	General	<p><u>AML/CFT Regs.</u></p> <p>Section 2 - The proposed FATF recommendations do not require VASPs to conduct due diligence on occasional transactions that are no more than USD/EUR 1,000.</p> <p>Section 2 (c) – Daily limit (Deposit Fiat) The minimum is USD/EUR 1,000. Is this suggesting that from USD 1,000 to USD 2,000? The same comment for the withdrawal amount.</p>	<p>The Commission will adopt a risk based approach to set the thresholds for what type of due diligence information and documentation is required by the customer. The approach will be in line with the recommendations published by FATF on Virtual Assets and Virtual Asset Service Providers.</p>

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4/6/2019	Financial	<p><u>Levy Regs.</u> I notice in the Fee regulations that there is a requirement to pay Government of Anguilla 0.25% of net revenue. Presumably the quarterly remittance will be then validated with any over/under payments being subject to a balancing adjustment once the Exchanges financial statements are finalized and externally audited. I could envisage a scenario whereby an exchange could post large volumes of accrued expense in their management accounts to reduce the fee liability for the external auditor to insist on reversing them at a later stage. It is a game that most companies play when managing their tax liability when it is based on net revenue or net income.</p> <p>I would suggest that Net Revenue be defined in the interpretation to prevent any future disagreements on what this is as there is many different interpretations of how this is calculated for example some net revenue definitions include whereas some exclude the operating cost.</p> <p><u>License Fee</u> Will the license fee cover the incremental cost of regulating the entities? I would hate for this to start then arguments arise that fees are insufficient requesting them to be increased. It would lose a lot of potential goodwill.</p>	<p>Section 2 of Levy Regulations will be amended to measure the levy on gross income instead of net income.</p> <p>Revisions to the fee structure in schedule 3 are being considered.</p>