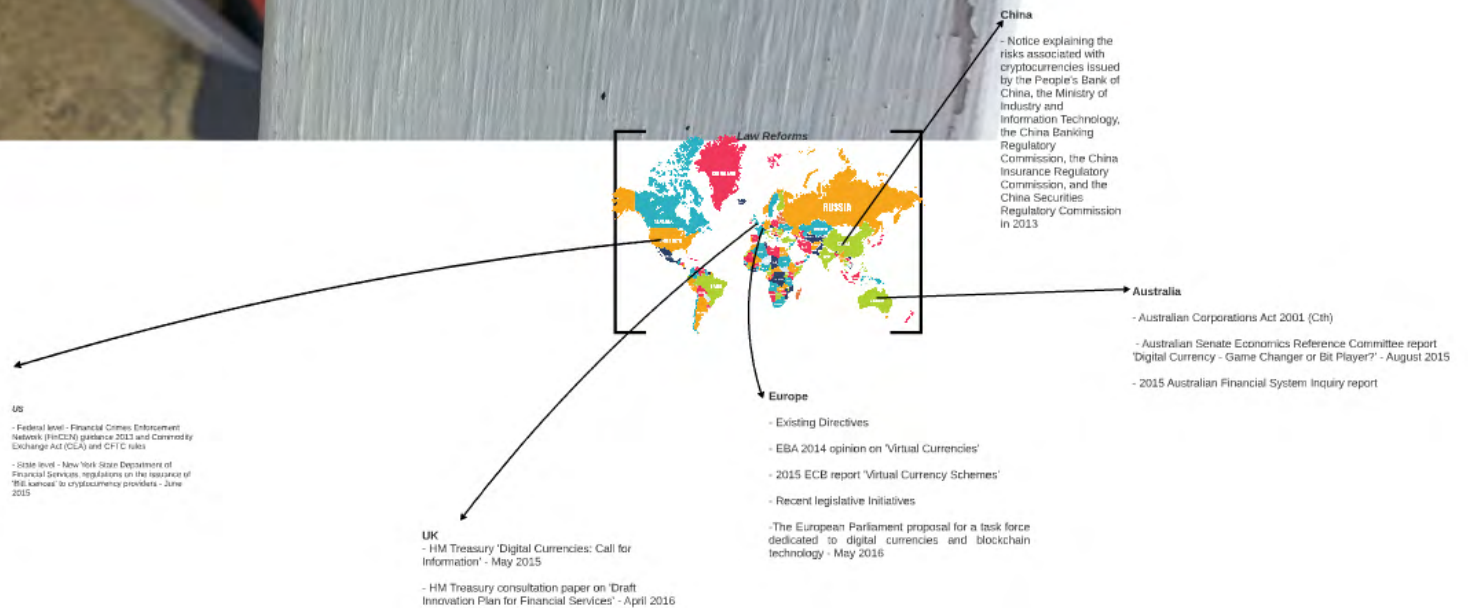


# The Regulation of Distributed Ledgers

Matteo Solinas





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*Matteo Solinas*

31 The regulatory challenges

Regulatory challenges: "What's broken"

327 Regulation in the context of distributed ledger technology

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# The CHESSE settlement system

"There has been very little innovation in the post-trade services that operate around the world for the better part of 20 years. Rather than replace CHESSE with a new version that is based on the same legacy processes that operate in the market today, we should aim to re-engineer and simplify those processes to deliver significant benefits to the users of the market."

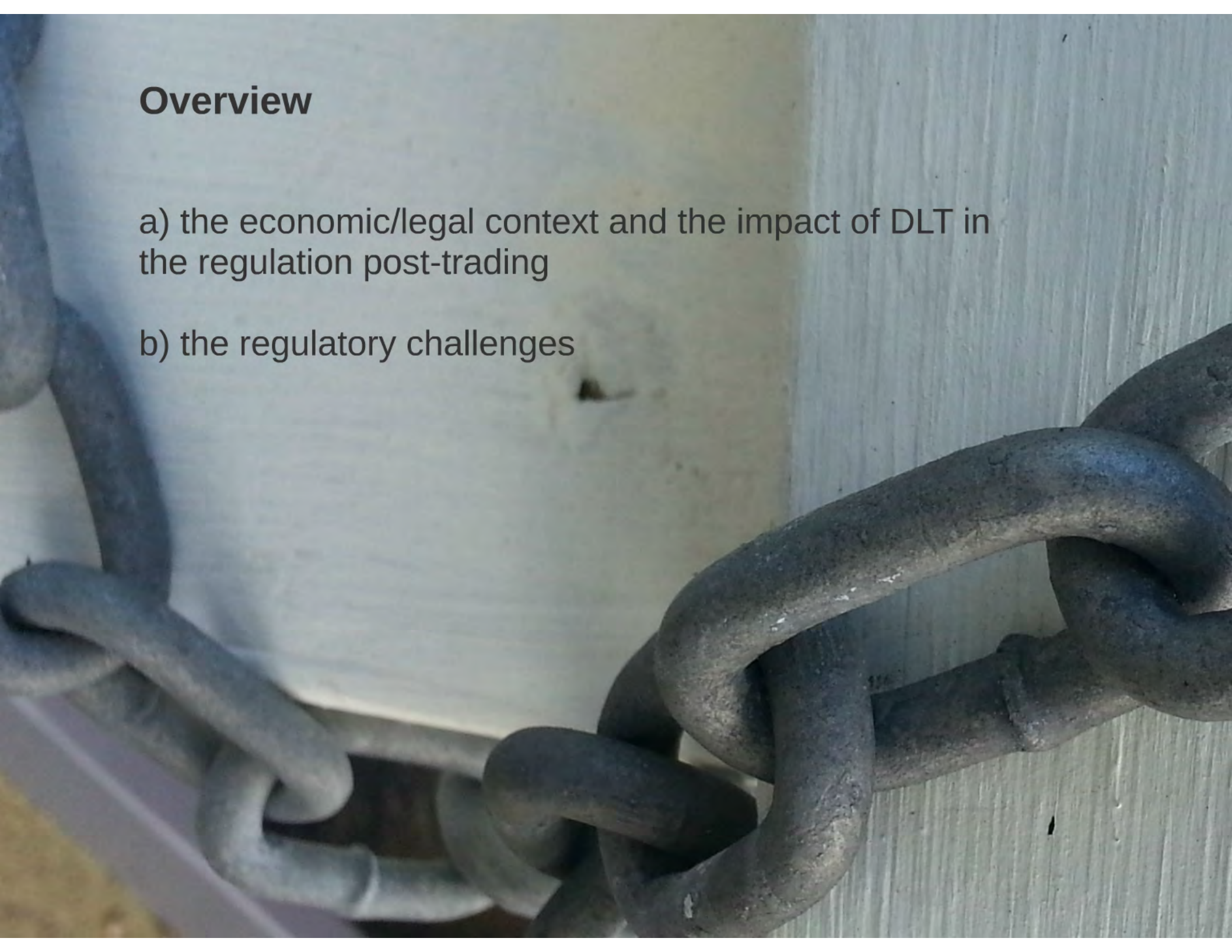
ASX Managing Director and CEO - January 2016







Almost \$ 500m of venture capital was invested in DLT-related businesses during the first 11 months of 2015



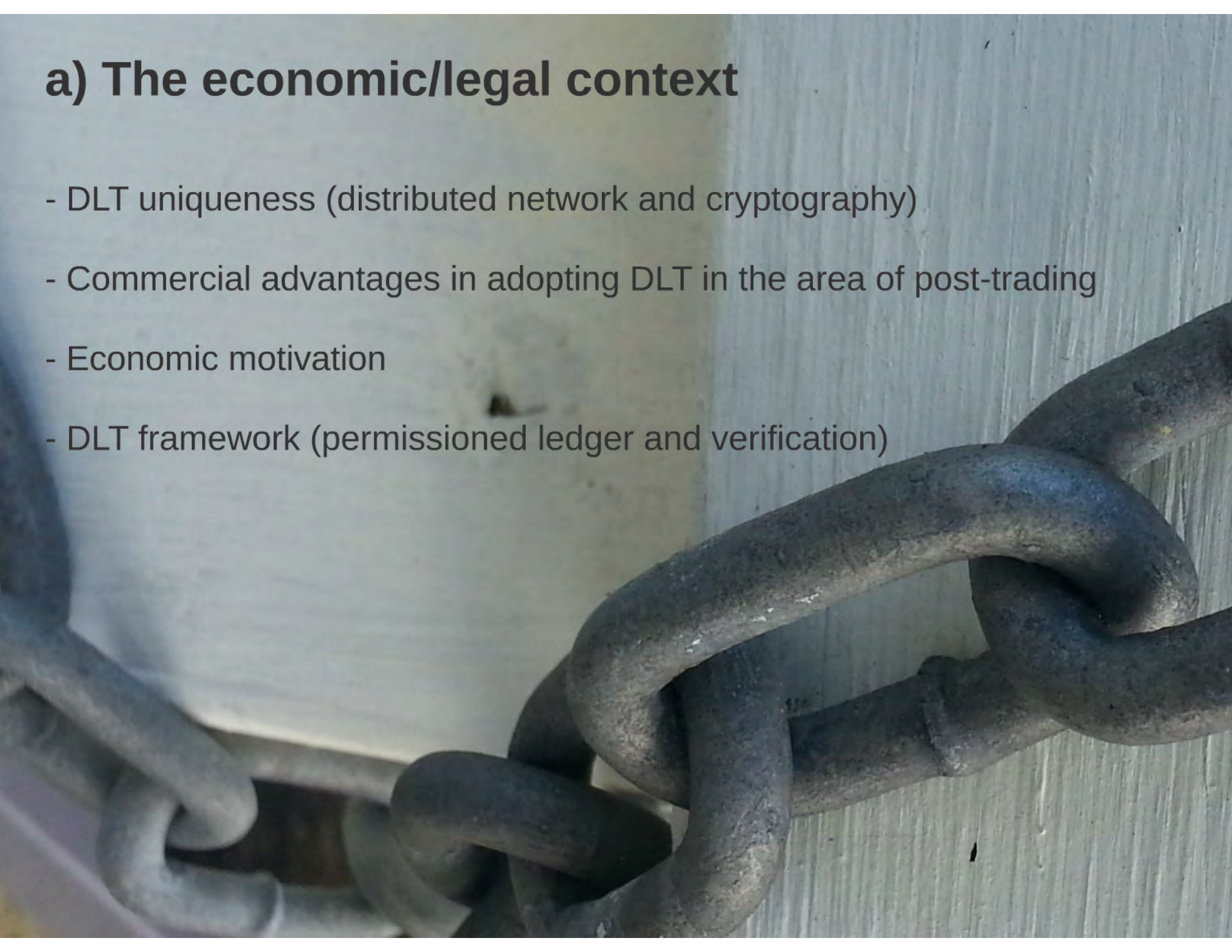
## Overview

- a) the economic/legal context and the impact of DLT in the regulation post-trading
- b) the regulatory challenges



## a) The economic/legal context

- DLT uniqueness (distributed network and cryptography)
- Commercial advantages in adopting DLT in the area of post-trading
- Economic motivation
- DLT framework (permissioned ledger and verification)





## a) The impact of DLT in the regulation post-trading

- Settlement
- Custody
- Clearing

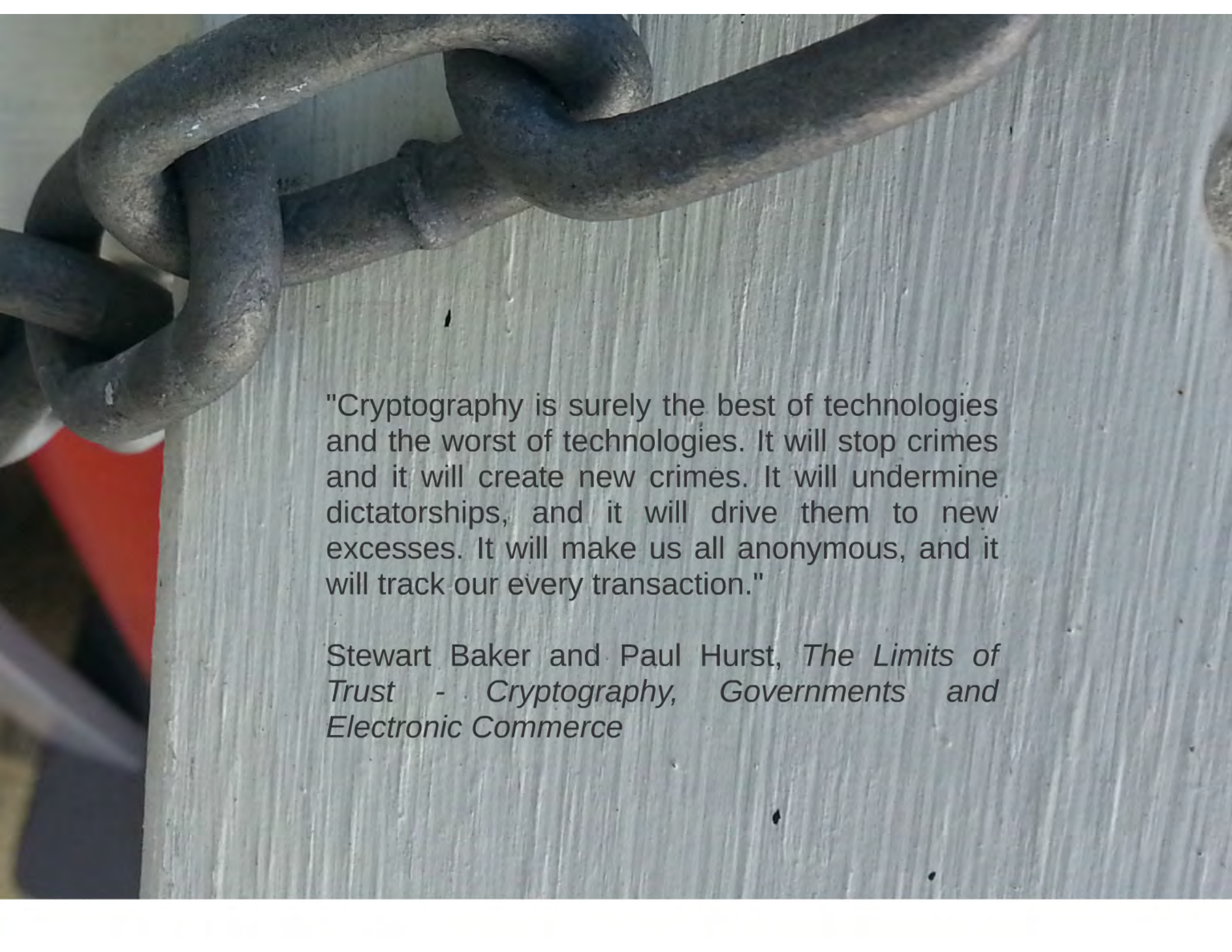




## **b) The regulatory challenges**

- Regulability ("who", "what", "where")
- DLT regulation is the software and hardware that makes as it is





"Cryptography is surely the best of technologies and the worst of technologies. It will stop crimes and it will create new crimes. It will undermine dictatorships, and it will drive them to new excesses. It will make us all anonymous, and it will track our every transaction."

Stewart Baker and Paul Hurst, *The Limits of Trust - Cryptography, Governments and Electronic Commerce*



## **b) The regulatory challenges**


- Regulability ("who", "what", "where")
- DLT regulation is the software and hardware that makes as it is



# Law Reforms







## Europe

- Existing Directives
- EBA 2014 opinion on 'Virtual Currencies'
- 2015 ECB report 'Virtual Currency Schemes'
- Recent legislative Initiatives
- The European Parliament proposal for a task force dedicated to digital currencies and blockchain technology - May 2016



# Law Reforms







## **UK**

- HM Treasury 'Digital Currencies: Call for Information' - May 2015
  
- HM Treasury consultation paper on 'Draft Innovation Plan for Financial Services' - April 2016



# Law Reforms





## *US*

- Federal level - Financial Crimes Enforcement Network (FinCEN) guidance 2013 and Commodity Exchange Act (CEA) and CFTC rules
- State level - New York State Department of Financial Services, regulations on the issuance of 'BitLicences' to cryptocurrency providers - June 2015



# Law Reforms



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→ **Australia**

- Australian Corporations Act 2001 (Cth)
- Australian Senate Economics Reference Committee report 'Digital Currency - Game Changer or Bit Player?' - August 2015
- 2015 Australian Financial System Inquiry report



# Law Reforms

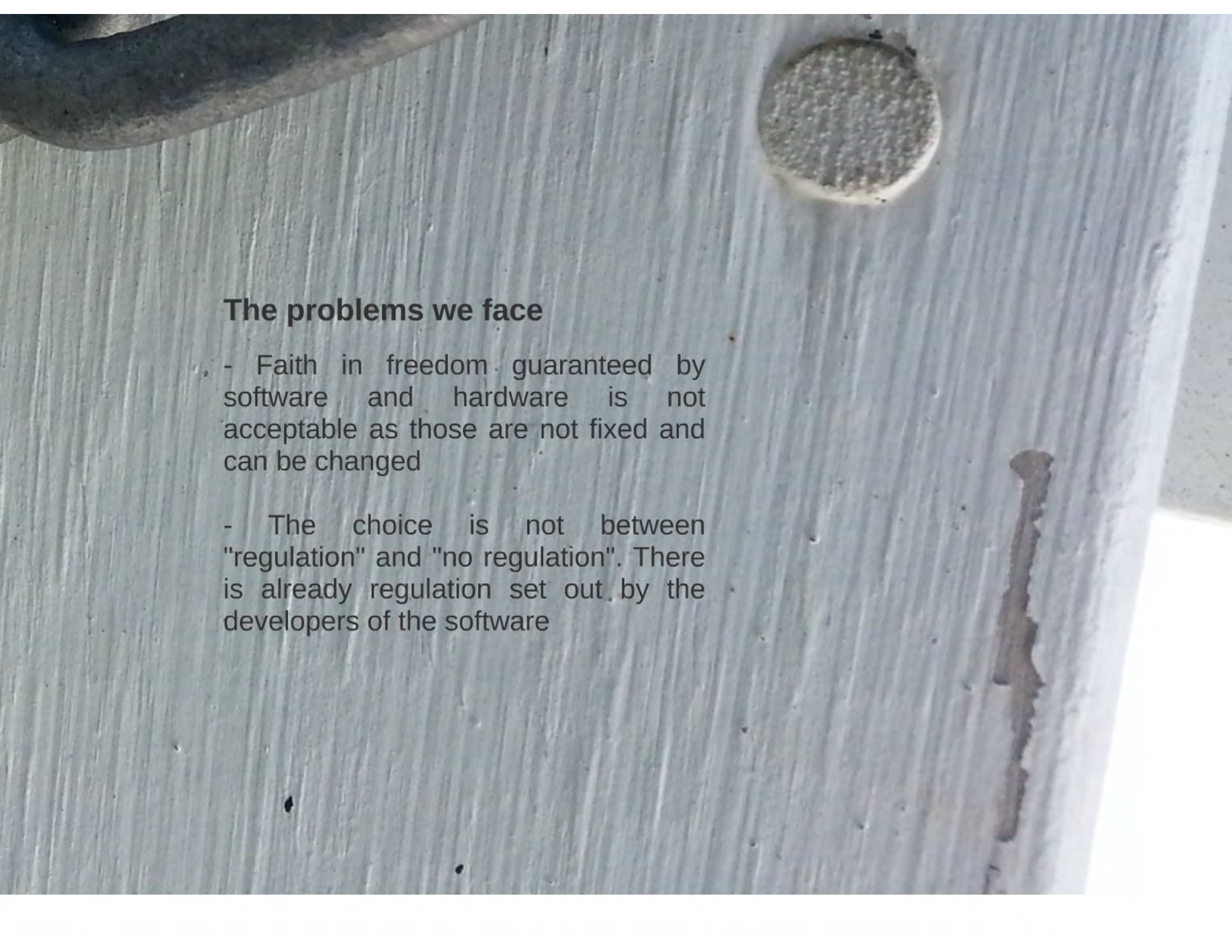




## China

- Notice explaining the risks associated with cryptocurrencies issued by the People's Bank of China, the Ministry of Industry and Information Technology, the China Banking Regulatory Commission, the China Insurance Regulatory Commission, and the China Securities Regulatory Commission in 2013

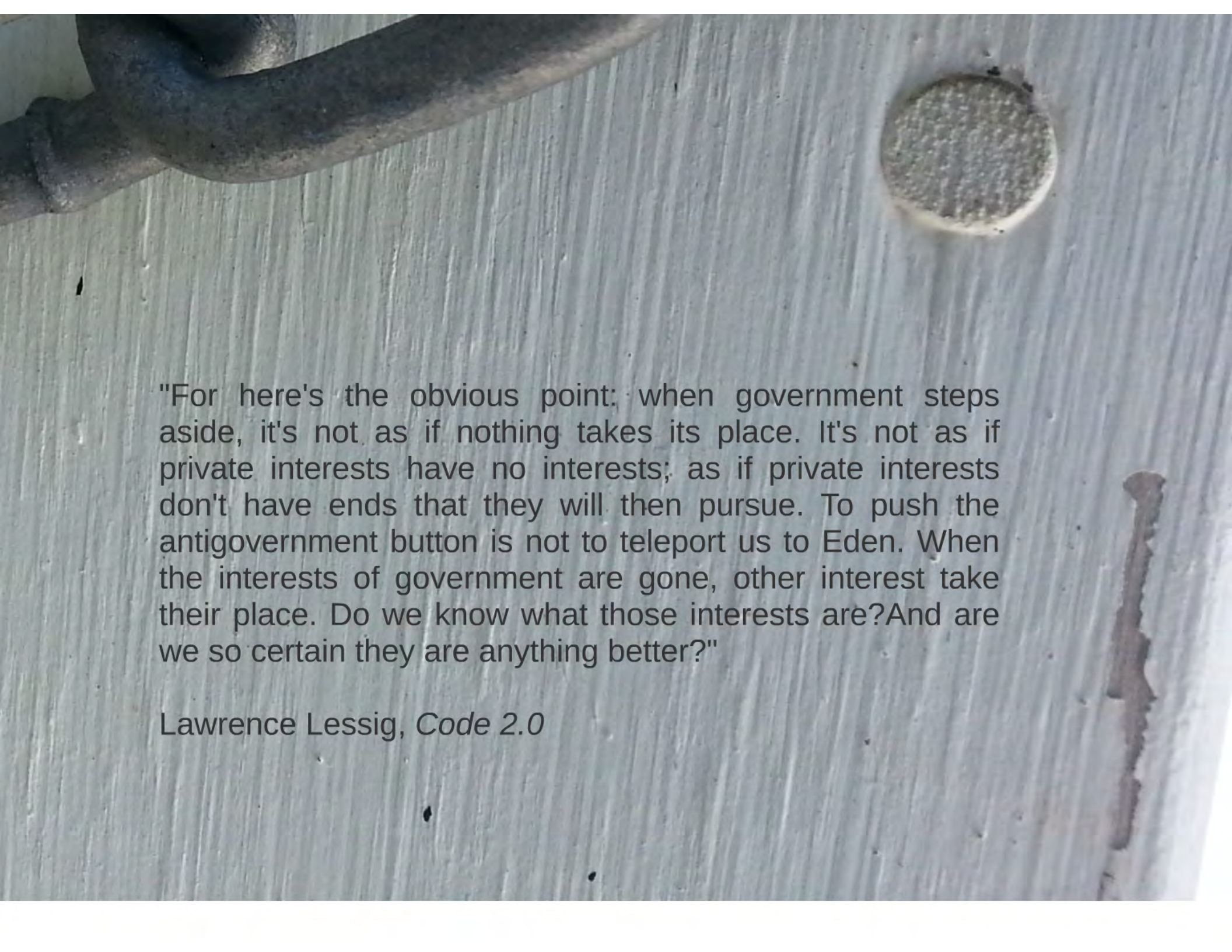




## The problems we face

- Faith in freedom guaranteed by software and hardware is not acceptable as those are not fixed and can be changed
- The choice is not between "regulation" and "no regulation". There is already regulation set out by the developers of the software





"For here's the obvious point: when government steps aside, it's not as if nothing takes its place. It's not as if private interests have no interests; as if private interests don't have ends that they will then pursue. To push the antigovernment button is not to teleport us to Eden. When the interests of government are gone, other interest take their place. Do we know what those interests are? And are we so certain they are anything better?"

Lawrence Lessig, *Code 2.0*



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