

São Paulo, 12 of February of 2018

To:

International Niobium Society (Niobium Foundation) and;
Digital Token Participações Ltda.

At.: Mr. Alessandro Brandrão

Ref.: Legal Opinion about Niobium (NBC) Token

Dear Sirs,

As requested by the Niobium Foundation based in Austria and its subsidiary in Brazil, São Paulo City, Digital Token Participações Ltda., to issue a Legal Opinion on the cryptoactive Niobium Coin (NBC) under Brazilian law, as well as its legal nature around the World, whether it can be considered a Utility Token or a Security Token.

First of all, it must be defined the difference between the two token issue possibilities:

-Utility Tokens

Utility tokens, also called user tokens or app coins, represent future access to a company's product or service. The defining characteristic of utility tokens is that they are not designed as investments; if properly structured, this feature exempts utility tokens them from federal laws governing securities.

By creating utility tokens, a startup can sell "digital coupons" for the service it is developing, many electronics retailers accept pre-orders for video games that might not be released for several months. As it was informed, Niobium will be will provide users with access to its decentralized cloud storage platform, called BOMESP (www.bomesp.org).

Because the term "ICO" is a derivative of "initial public offering" (ICO), utility token creators usually refer to these crowdsales token generation events (TGEs) or token distribution events (TGEs) to avoid the appearance that they are engaging in a securities offering.

-Security Tokens

If a crypto token derives its value from an external, tradable asset, it is classified as a security token and becomes subject to federal securities regulations. Failure to abide by these regulations could result in costly penalties and could threaten to derail a project. However, if a startup meets



all of its regulatory obligations, the security token classification creates the potential for a wide variety of applications, the most promising of which is the ability to issue tokens that represent shares of company stock.

-Niobium Coin (NBC) is a Utility Token, as CVM (Brazilian SEC)

Niobium recently got the green light from CVM (Comissão de Valores Mobiliários) Brazil's equivalent of the Securities & Exchange Commission (SEC)

In January 15, 2018, crowdsale began for Niobium Coin (NBC), the first virtual currency of Austro-Brazilian origin, developed to raise funds for the new Business Virtual Currencies Exchange of São Paulo (BOMESP - Bolsa de moedas virtuais empresariais de São Paulo), which will operate globally, and be highly attractive to businesses of all sizes.

A decision without precedent in the domain of market regulatory agencies all over the world, the new cryptocurrency has been given a green light by Brazil's Securities Commission (CVM - Comissão de Valores Mobiliários). Brazil's equivalent of the Securities & Exchange Commission (SEC). The decision was announced in 30 of January of 2018, when the CVM, which is associated with Brazil's Ministry of the Treasury, concluded that Niobium Coin (NBC) is not a security. The decision is publish in the site of CVM - www.cvm.gov.br, as shown below:

7. CARACTERIZAÇÃO DE ICO COMO OFERTA DE VALOR MOBILIÁRIO – PROC. SEI 19957.010938/2017-13
Reg. nº 0888/18
Relator: SRE

O Colegiado acompanhou a manifestação da área técnica no sentido de que a criptomoeda ou *utility token* Niobium Coin, nos estritos termos em que foi apresentada à CVM até esta data, não se caracteriza como valor mobiliário, razão pela qual a CVM não teria competência em relação à sua pretendida oferta inicial de distribuição (*Initial Coin Offering - ICO*).

No entanto, o Colegiado ressaltou que essa decisão circunscreve-se à análise da Niobium Coin, e em nada impacta a atuação desta Autarquia em relação a ofertas que envolvam produtos que, independentemente de sua denominação, sejam caracterizados como valores mobiliários. O Colegiado ressaltou, por fim, que plataformas de negociação constituídas para negociar, ainda que de forma não exclusiva, valores mobiliários devem verificar se estão sujeitas à legislação brasileira e à regulação editada pela CVM.



-Howey Test

The "Howey Test" is a test created by the Supreme Court for determining whether certain transactions qualify as "investment contracts." If so, then under the Securities Act of 1933 and the Securities Exchange Act of 1934, those transactions are considered securities and therefore subject to certain disclosure and registration requirements.

Under the Howey Test, a transaction is an investment contract if:

1. It is an investment of money
2. There is an expectation of profits from the investment
3. The investment of money is in a common enterprise
4. Any profit comes from the efforts of a promoter or third party

According to our review of the CVM process SEI 19957.010938/2017-13, the Niobium Token passed the Howey Test and was characterized as a Utility Token.

Accordingly, our opinion is that Niobium Coin (NBC) is a Utility Token, and has even been released by the Brazilian government authorities, CVM (Brazilian SEC), which may be traded on Brazilian territory, as well as in any international jurisdiction that allow Utilities Tokens to be negotiated without any hindrance.

We remain at your disposal for any clarifications that may be necessary.

Sincerely yours,


Fernando Mauro Barrueco


Paulo Salvador Ribeiro Perrotti

