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1. INTRODUCTION

This Legal opinion was prepared to address the following concerns:

1. Whether or not Membrana LTD's issuance of MBN tokens constituted a security contract between an issuer and an investor; and
2. Whether or not the MBN token has status as a security.

SUBJECT TO THE LIMITATIONS SET FORTH BELOW, THE UNDERSIGNED IS HEREBY OF THE OPINION THAT IT IS UNLIKELY THAT THE **MBN** TOKEN WOULD BE CONSIDERED A SECURITY BY THE SEC AND THAT THE INITIAL DISTRIBUTION DID CONSTITUTE A SECURITY CONTRACT.

This legal opinion is based solely on the sources of information listed in the attached annex and/or explicitly described herein. The legal opinion was prepared based on information and documents furnished by **Yuriy Gerasimov**, WhatsApp/WeChat: +7 911 014 5706, E-mail: Yuriy@Membrana.io, CEO at Membrana Founder and CEO of Membrana LTD (the Issuing Company), (including his verbal comments, publicly available documentation on the https://Membrana.io/ website, such as the Membrana LTD Whitepaper, «https://Membrana.io/business_overview_language/», Privacy Policy and publicly available documentation of the open source blockchain based MBN protocol. To the extent that any additional and/or presently unidentified sources of information or newly enacted regulation materially alter the opinions contained herein, the undersigned assumes no liability.

Membrana LTD, Willow House, Cricket Square, PO Box 709, Grand Cayman KY1-1107, Cayman Islands, Code is: G18241849750. Number is 339391.

Based on a thorough analysis of the properties and characteristics of Membrana LTD's representations and executions of their agreements with crowdfunders, it is the legal opinion of this author that the issuance of MBN tokens by Membrana LTD did not constitute an investment contract with crowdfunders who acquired MBN, and that MBN tokens do not meet legal and regulatory criteria necessary to classify MBN tokens as a security.

This opinion is explicitly Membrana LTD to the law of the following jurisdictions: United States, Singapore, HK, Canada, China, European Union, UAE, Cayman Islands.

Escrow MNE DOO (LLC) shall defend this position with respect to its consideration by courts or authorities as necessary.

Subject to the foregoing, we hereby present this considered legal opinion concerning the regulatory status of the MBN token in the specified jurisdictions. Specifically, this document analyses the risk that specified regulatory agencies might regard the MBN token as a «security» so that the exchange may assess their corporate liability in facilitating transactions involving the MBN token.

2. OVERVIEW OF MEMBRANA LTD AND MBN

2.1. Business description. Key features.

At the outset, one must distinguish between Membrana LTD, which is a company that has distributed utility tokens for use on a particular blockchain, and the community itself. The company does not own the community, which is decentralized and maintained by MBN holders. The MBN tokens can be utilized in a variety of ways, but only on the MBN Platform. The distinction between (1) Membrana LTD, (2) the MBN community and (3) the MBN tokens is fundamental to understanding that, pursuant to the below analysis, MBN tokens are not securities.

BUSINESS ANALYSIS.

Let's look at the issue and sale of tokens by an Membrana LTD as a separate unique precedent. To test it for likeness with the fact of an issue of securities or debt instruments. If so, the tokenholder and the Issuer are bound by a relationship subject to securities issuance regulation. To disprove this, let's show you that the Platform is a real example of a peer-to-peer ecosystem.

The MVP presence.

The first thing on which our expert opinion is based is an assessment of the complexity and realism of the presented Membrana LTD business model. The important point is that the team already has a «Minimum Volume Product» (MVP) at the time of token sale.

At the time of the crowd sale (IEO), a Protocol and a Product were created as the basis for further development of the application for p2p platform participants.

- ✓ Currently, the Beta version of the Membrana platform is available for open testing: beta.Membrana.io
- ✓ Smart Contracts for the Membrana platform can be found in the official GitHub repository: https://github.com/Membrana-io.
- ✓ The frontend system is published on GitHub: https://github.com/Membrana-io/frontend.

P2P Ecosystem basis of an open platform.

The main objective of the Membrana platform is to directly connect an investor and a trader to conclude a mutually beneficial, secure, and reliable contract.

First of all, it is intended to bring investors and traders together for concluding mutually beneficial blockchain-protected contracts for the trust management of cryptocurrencies assets. Membrana provides investors and traders with a transparent, decentralized and secure system, which controls the process of concluding and executing a contract up to the point of revenue gained by both parties.

The main participants of the platform.

- ✓ Traders
- ✓ Investors

Platform’s services.

The Membrana platform offers traders the following opportunities:

• Trading on different cryptocurrencies exchanges through a single interface

• Trading from both of their exchange accounts, and accounts transferred to traders in trust management by investors

• Offering their services on trust management to potential investors. Setting parameters for future contracts, such as contract duration, target profit, and remuneration amount

• Conclusion of contracts for trust management of cryptocurrencies assets with investors

• Fixing the terms of concluded contracts with blockchain Ethereum Smart Contract technology to guarantee the completion of these conditions.

The Membrana platform offers investors the following opportunities:

• Choosing suitable traders based on complete and definitive information of traders who offer their services on trust management

• Getting reliable data on past profitability of traders' commercial activities confirmed by a hash sum of transactions saved in blockchain

• Concluding a contract with a trader for the trust management of cryptocurrencies assets located on various cryptocurrency exchanges in an investor's account

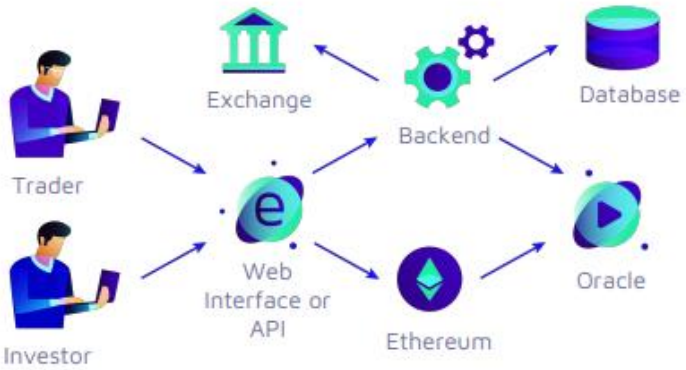
• Transferring own funds to the trust management by traders without transferring these funds directly to them. Membrana platform allows an investor to give traders an opportunity to manage funds, but not possessing the funds. Traders get the opportunity to trade with the investors' exchange accounts but they do not own these funds. Also, investors do not transfer their funds to Membrana platform

• Transfer of funds for management from one exchange account to several traders, indicating the amounts transferred for management in each currency.

• Setting restrictions on trading with an exchange account transferred to trust management, such as a set of allowed trading currencies, and maximum trading loss (stop loss)

• Obtaining information on the progress of the execution of concluded contracts

The Membrana is a real example of a decentralized system



For the purpose of transfer of an investor's exchange account to a trader in trust management, an API key provided by the exchange is used. The API key is not transferred to the trader, but stored on Membrana's platform in a secure database.

To conclude a transaction for trust management between investors and traders, the Ethereum Smart Contract is used. A Smart Contract contains all of the details of the agreement. On the Smart Contract account, an investor reserves a trader's consideration in advance, in the amount to be paid upon reaching the target profit.

Membrana LTD team creates a blockchain platform that unites participants of financial markets for mutual trade with each other as members of a peer-to-peer network.

Taking into account that platformers as the main target are to get profit from their personal efforts in the trading activities, they act on their own risk. Membrana as the Company, as the team or as the Platform does not influence his choice. Thus, this risk does not relate to the Membrana management team efforts.

Users of the platform can perform at will the following roles: the Trader, the Broker, Investor. One more of the hypothetical users of the platform may be banks and credit organizations.

The Membrana is an open platform that works on distributed ledger technology, which makes it open and transparent to all participants. It is designed to develop digital crypto-currency markets and objects for various purposes with their subsequent launch and integration into a unique ecosystem.

Membrana provides an opportunity for any users to choose a role from those available on the platform. Each participant is able to acts as an independent business unit. The Membrana platform gives them only the opportunity to join a peer-to-peer network. That`s why the platform develops due to the network effect.

The Platform as a framework.

Thus, the Platform acts as a framework and provides just a set of tools for users interested in solving their own business tasks. Thus, the users by their own efforts create a peer-to-peer network.

The Platform as a marketplace.

Due to the fact that the Platform is mostly focused on participants who want to offer their products and services, the Platform is very likely an online network marketplace.

COF (Community-Operated Fund)

To community interests, Membrana founders' team provided a community-operated fund feature.

The management team did not provide a new issue of tokens.

The tokens process issue does not regulate by the management team.

However, the COF was created for the purpose of the self-regulation of token price deflation. Thus, each participant (token holder) can choose one of such behaviors as:

- user can stake MBN tokens on the platform to receive the second level of staking and superuser status. This level allows him to perform governance of COF choosing traders to trust money for management. Additionally, it allows the user to create his own Fund, using Membrana software.

- the user can receive the functions of the platform and make payments, for example, for the conclusion of trust management agreements with investors.

There is no central COF control. The users themselves depending on the chosen strategy manage the Fund. Users' choice is implemented by a smart contract.

In addition, tokens (assets) placed by the user in COF allow getting a larger margin amount.

Anyone who purchases tokens can implement the chosen strategy on an equal basis.

The funds raised on the IEO from the token sale are not direct to the capitalization of the platform's assets. Part of the funds (5%) goes to COF to regulate the “deflation” of the token value & gives a financial basis for margin contracts.

Stimulating "token deflation" through reward policies is probably an "inflation tax” protecting the platform's economy from speculators.

Key characteristic.

The Platform just provides tools to implement these features/roles and a place for communication. We can show this such as the Platform automates traditional relationships between market participants.

It is important that the Platform is not the operator of users’ transaction does not provide services of a financial agent in respect of transactions between participants of the Platform and is not a guarantor.

The Platform does not its own funds and does not conduct credit activities.

The team itself has not only commercial goals. They solve socially important tasks, such as to directly connect an investor and a trader to conclude a mutually beneficial, secure, and reliable contract.

The profit or damage can be derived only from the entrepreneurial or managerial efforts of platformers.

The passive behavior of the token-holders does not bode a profit for them.

The only term and condition for access to all the advantages of the platform is the presence of a token.

For the success of Platform, it is essential to make the register of rights to certain assets invulnerable, stable and always guaranteed to be available. All this can be achieved by tokenizing the assets traded on the P2P marketplace and creating a P2P exchange ecosystem on the blockchain.

Participants also acknowledged that possession of MBN tokens does not constitute ownership of a share of Membrana LTD.

The token is the only digital device that allows one to use the MBN network protocols. Any newcomer could become an MBN blockchain user by participating as a crowdfunder (during the initial crowdfunding opportunity) or by buying the MBN token from another MBN holder after the distribution of tokens.

To ensure that all the statements and promises specified in the Whitepaper are implemented, the project team will raise funds from institutional investors, development funds, sponsors, banking and investment instruments. The success of the MBN token campaign will show investors the attractiveness of the project for subsequent investments and increased demand from ordinary users.

By purchasing MBN token, the buyer understands and acknowledges that He may use the products and services specified in the Whitepaper in the future. The purchase of MBN token is not an investment in a common enterprise the same as the purchase of prepaid goods or services not is be an investment. The buyer of the MBN token understands and acknowledges that the purchase of the MBN token is not an investment. The only use of the MBN token is to be a payment Protocol within the framework of the platform services.

Making a profit is not provided by the documents. In addition, it is impossible to make a profit by technical scenarios implemented on the blockchain.

2.2. MBN Token description.

The Membrana platform has its own Ethereum token – MBN. MBN refers to the type of utility token involved in the platform functionality.

Membrana users get access to the main system functions for free. The main functions include: trading through a single terminal on any supported exchange, finding a suitable investor or trader, concluding a contract between the investor and the trader, and contract support until its termination. Additional functions are available only to users who have a corresponding number of tokens in their wallet. In this case, users do not spend their tokens, only hold them in their account.

Membrana Token is a Utility token, used as an inner payment method inside the platform.

The MBN token is a discrete, native digital asset of the MBN Platform, attributed to a specific address and transferable between different addresses. MBN is a cryptographic software product, created specifically to function within the Platform.

The use of Ethereum Blockchain smart contracts is limited only to critical functionality and utilizes the ERC 20 Blockchain.

The MBN token is a functional tool for users to enter into contracts managed and executed by the protocol. Thus, the MBN token is a digital, cryptographic tool for the Platform smart contract.

As well as tokens that users put on security deposit on the Platform to gain access to its functions.

Thus, the MBN token has its own value (utility) and is in no way dependent on the Membrana LTD's assets.

Platform users and token holders do not have the right or technical ability to receive any part of the company's profit.

Using the MBN token within the platform

With attention, we decomposed all business processes where the buyer can use his token.

First, we have evaluated all possible events and scenarios in which the direct buyer of tokens can or should participate personally.

These are the major use cases for Membrana tokens:

1. Pay commission

Users can use MBN tokens to pay platform commission.

2. Use advanced features

User can receive access to advanced features and external API by holding certain amount of Membrana tokens on their wallet.

3. Access to Membrana Management fund

Users can sent MBN token as a collateral to receive access to margin contracts from Membrana Management fund

4. ICO/IEO pools

User can create or join ICO/IEO pool using Membrana tokens and receive additional discounts for investments.

DEDUCING. All possible scenarios (action) of token holders ' actions are implemented on the basis of blockchain technology. These scenarios are different. It is very unlikely that any of these scenarios will be considered with law enforcement of security holders' rights. On the platform (framework), there is no such relationship as can be between investors (shareholders) and the enterprise.

There no any manual action is required outside of the network (e.g. off-blockchain) in order for the holder to get the benefit of the token.

First, MBN is very likely a technical solution. Unique technical solutions and useful effects are unattainable without the use of smart contracts and «crypto token» technology.

The MBN token has its own value (utility) regardless of the founder's assets. Such digital instruments are not the «Company assets».

None of the actions of utilizing the token carries signs of securities rights realizing.

The value of the token does not depend on the value of the company business, the value of assets and company profit as the tokens do not represent any share nor right nor does the company generate profit.

Platform users and token holders have no voting right and technical ability to receive the relevant part of the company's profit or any claim represented by the token other than being able to use it to transact on the Blockchain. The founders do not carry out the reverse purchase of the token.

All transactions are tied to the blockchain. This is the equivalent of a real exchange of services between the platform participants.

Thus, the company has no rights and no technical ability to regulate the current rate (price) of tokens.

The company does not hold an account token as its own assets in accordance with the securities and accounting legislation.

3. LEGAL OPINION

Preliminary Statement

The initial crowdfunding event and subsequent transactions related to MBN should not be subject to securities regulation because MBN, as discussed in more detail below, lacks fundamental features that define securities in most jurisdictions.

Generally stated, Membrana LTD does not rely on MBN purchasers as a funding source, and MBN holders have no equity or financial interest in Membrana LTD. The fortunes of the «investor» (i.e., initial crowdfunder of MBN) are not linked to the success or failure of Membrana LTD. There is no expectation of income that is based on how Membrana LTD conducts business. When these facts are applied to the various securities regulations discussed below, it is shown that MBN tokens are unlikely securities.

3.1 United States Law

A detailed understanding of U.S. law is necessary for this opinion because of the weight it carries in the sizable U.S. economy and because it serves as a model to be followed in several other jurisdictions.

The United States lacks any statutory or common-law precedent that explicitly addresses cryptocurrency or blockchain technology. In July of 2017, the Securities and Exchange Commission issued a statement called the DAO report, which explicitly addressed blockchain tokens. The most important result of the DAO report is the direction that existing U.S. securities law will be applied to cryptocurrency and other blockchain instruments. The question of what constitutes a security has been set forth by the Supreme Court of the United States in a case called SEC v. **Howey**.

3.1.1 Howey Test

«[A]n investment contract, for purposes of the Securities Act, means a contract, transaction, or scheme whereby a person invests his money in a common enterprise and is led to expect profits solely from the efforts of the promoter or a third party, **it being immaterial whether the shares in the enterprise are evidenced by formal certificates or by nominal interests in the physical assets employed in the enterprise**.» *SEC v. W.J. Howey Co.*, 328 U.S. 293, 301 (1946).

- ✓ We take into account that a different Crypto Exchanges welcomes different approaches to the testing of the token. In preparing the legal opinion, we applied two alternative methods of token testing. Find an alternative Howey test in **Annex 1** to the legal opinion. Below you will find our author's expert research.

3.1.1.1 Monetary Investment:

«[A]n investment contract exists when a person (1) invests money, (2) in a common enterprise, and (3) is led to expect profits solely from the efforts of others». See Defining An «Investment Contract»: The Commonality Requirement Of The Howey Test, 43 Wash. & Lee L. Rev. 1057 (1986), http://scholarlycommons.law.wlu.edu/wlulr/vol43/iss3/1

There was a purchase when crowdfunders sent cryptocurrency to the issuer, Membrana LTD Membrana LTD. Whether or not this constitutes an «investment», depends on additional factors and analysis.

Cryptocurrency constitutes «money», as opposed to «investment». The notion of investment is more complex, and hinges on what crowdfund participants expected to receive in return for their money. Membrana LTD Membrana LTD represented that donors would receive a specified, proportional amount of MBN multi-utility tokens that are the exclusive means to access MBN protocol functionality on the MBN decentralized open source blockchain based network. While clearly «money» was given in exchange for a utilitarian commodity, it would be an overreach to assert that the contribution constituted an investment. Since MBN is a utility (i.e., a means to get service), buying MBN does not imply an investment strategy, but strictly a choice to put «money» at goods (services).

Under U.S. law, any investment assets are acquired only for investing, making a profit, preserving and with «investment» purposes.

In the case of investment agreements, buying the share of the company, or the purchase of securities there is a «Failure of consideration» when the investor gets the tokens for using platform services.

3.1.1.2 Common Enterprise

In the seven decades since Howey was decided, United States Courts have still not come up with a firm definition for «common enterprise», even though it is a required part of the analysis. We have set forth the varying approaches used in different jurisdictions below.

Horizontal approach - pooling of investors' money in a common venture.

Narrow Vertical approach - common enterprise is a venture «in which the 'fortunes of the investor are interwoven with and dependent upon the efforts and success of those seeking the investment....» It is not necessary that the funds of investors are pooled; what must be shown is that the fortunes of the investors are linked with those of the promoters, thereby establishing the requisite element of vertical commonality. Thus, a common enterprise exists if a direct correlation has been established between success or failure of [the promoter's] efforts and success or failure of the investment. Sec. & Exch. Comm'n v. Eurobond Exchange, Ltd., 13 F.3d 1334, 1339 (9th Cir., 1994).

Broad Vertical Approach - common enterprise if the success of an investor depends on a promoter's expertise. See Marc G. Alcser, Comment, The Howey Test: A Common Ground for the Common Enterprise Theory, 29 U.C. Davis L. Rev. 1217 (Summer, 1996).

The shared thread that runs through each of these approaches is the notion that the entity selling the item in question, and the person buying the item are somehow in business together. With MBN, that is clearly not the case. MBN acts as a ticket that allows participation in the MBN blockchain network.

One might attempt to argue that the common enterprise prong is satisfied because the value of MBN is dependent on maintenance of the network. After all, your ticket to the amusement hall is valueless if the amusement hall shuts down. This illustration shows why the argument doesn't work. Mere patronage of the amusement hall does not make one a stakeholder in the establishment. More importantly, MBN's status as a token on a decentralized blockchain network means that the network maintains itself.

So, there is no pooling of investors' money; there is no interweaving of the fortunes of investor and those seeking investment; and the investor does not depend on promoter's expertise.

MBN tokens give holders exclusive access to participation in MBN protocols. As a result, MBN holders collectively (and exclusively) by virtue of owning MBN, are in full control of their choices about how to interact directly with the MBN protocol.

Membrana provides an opportunity for any users not only to choose a role from those available on the platform but also any user able to create their own services and applications. Each participant able to acts as an independent business unit. The Membrana platform gives them only the opportunity to join a peer-to-peer network. That`s why the platform develops due to the network effect. Platform users can create their own services on the platform and offer them to other users. Thus, the Platform acts as a framework and provides just a set of tools for users interested in solving their own business tasks. Thus, the users by their own efforts create a peer-to-peer network. The Platform as a marketplace. Due to the fact that the Platform is mostly focused on participants who want to offer their products and services, the Platform is very likely an online network marketplace.

3.1.1.3 Reasonable Expectation of Profits

Membrana LTD Membrana LTD has restricted its representation in connection with MBN to the promise that MBN tokens give holders exclusive access to participation in MBN protocols. There has never been any representation that acquiring MBN was a path to profit.

Based on Membrana LTD Membrana LTD's representations, crowdfunders had no reasonable expectation of profit from Membrana LTD Membrana LTD.

Another factor, which profoundly informs reasonable expectations, is the nature of MBN as a utility token. The token allows the holder to take a very Membrana LTD and specific number of actions — particularly interactions on the MBN blockchain. Thus, there is a high expectation of use, which is distinguishable from the investment properties of traditional securities.

It should also be noted that the "profitable" part of the "reasonable expectation" is removed in light of the fact that a significant part of the MBN utility is determined by the activity of p2p business users. Such contracts may be concluded with the expectation that the individual contract will be resolved favorably, but any analysis of transactions should include the necessary role of loss in such an economic environment. The very nature of business requires the expectation of losses.

There is confidence that (a) some ABBK holders will make a profit while others will suffer a loss, and (b) that there will be differences based on individual choice.

Indeed, the whole premise of the MBN Protocol is that individual MBN holders will eventually take the risk of their own actions, and that some will lose their MBN tokens and others will acquire more MBN tokens.

Fund Membrana represented that the donors will have certain proportional amount of tokens MBN, which clearly do not constitute a stake in Membrana LTD or give right holders on income, profits or dividends. In addition, the Membrana LTD does not portray the issuing company as pursuing any business strategy, model, or revenue scheme.

The important point is that the team already has a «Minimum Volume Product» (MVP) at the time of token sale.

At the time of the crowdsale, a Protocol and service were created as the basis for further development of the application for p2p platform participants.

3.1.1.4 Profit from another's effort

Any determination of whether or not something should be classified as a security absolutely requires a finding that the profit generated is from another's effort. In the present case, this prong is not satisfied. On the contrary, the profit to be generated from the holding and utilization of MBN is based on the holder's OWN effort and conduct, and not that of a third party. If no one utilizes the network, then the MBN has no value. The conduct of MBN token holders utilizing the network creates value in the MBN token.

The manner in which profits may be understood by looking at the promoter's representations. In this case, that promoter is Membrana LTD Membrana LTD. Although representations will be more impactful regarding the "expectations" prong (discussed above), they provide a detailed picture of how the prospective buyers could expect profit from purchasing MBN. In short, the opportunity for profit comes from the token holder's own application of MBN tokens to access the multifunction utility of the distributed MBN open source blockchain based protocol.

It should also be noted that, in order to proceed with crowdfunding, participants were required to indicate their agreement with the Terms and Conditions., and thus explicitly acknowledged that neither acquisition nor ownership of MBN tokens constitutes a share in Membrana LTD Membrana LTD for any purpose. Membrana LTD Membrana LTD has not represent that the issuing company would generate any profits or share profits with crowdfunders by corporate efforts or by managerial effects, that is, through the management of crowdfunders' contributions

The MBN network was originated with the assistance of crowdfunders who received MBN tokens in return for their financial support. By reviewing the nature of MBN as a utility token, it is shown that any profit which is derived from such possession, is based not on the actions of those who issued the token, but rather on those who utilize the Platform.

Far from being in a «passive» position as investors dependent upon the issuer or a third party to derive value from an «investment», crowdfunders and all holders of the MBN tokens, are the only ones capable of deriving utilitarian value from the MBN tokens through their choices about how to utilize them to interact with the Platform.

No one can interact with the MBN Platform without MBN tokens, therefore, the MBN token holders are themselves the directors and managers of the uses to which they put their own MBN tokens on the Platform.

Moreover, the very «profit expectation» assumes a «trust» in the company's management when investor transfers funds to the Common Enterprise. In the Membrana LTD`s case «the expectation» is impossible because the deal is

closed after the exchange of values between token buyers ant Membrana LTD. Then, the token owner is solely responsible for the purchased Utility.

3.1.1.5 Conclusion: according to Howey, it is very unlikely that the MBN Token would be considered a security.

Based on the foregoing analysis, the opinion letter hereby concludes that, under the Howey test in United States law, it is very unlikely that the MBN Token would be considered a security by the SEC.

3.1.2 The Risk Capital Test.

Within the U.S, securities laws exist at both the state and federal levels. State statutes are called «blue sky laws». Traditional public offerings must comply with both state and federal laws. Some U.S states use a different test to determine if a token is a security. The test is «the Risk Capital test».

The Risk Capital test has also been applied to cooperative initiatives where, under the Federal Courts' definition these cooperatives were not deemed to be securities because the members joined the club to get the benefits of membership, and not for a financial return. (Silver Hills; Jet Set Travels Club v. Corporation Com'r, 21 Or. App. 362 (1975) (hereinafter, «Jet Set»))

In Silver Hills, the Risk Capital Test determines that an investment contract exists when four prongs are satisfied:

1. funds are being raised for a business venture or enterprise (the risk capital);
2. an indiscriminate offering to the public at large;
3. a passive position on the part of the investors, i.e. investors do not affect the success of the initiative;
4. the conduct of the enterprise by the issuer with other people's money.

The court in Silver Hills held that the sale of membership to a country club was a security because the initiative utilized risk capital. The investors were risking their capital in expectation of the benefits of membership and the concept of profit was absent from that agreement. It might seem, in light of this ruling, that the Risk Capital test would allow a danger of MBN being determined to be a security. A closer examination of the third prong, however, reveals that MBN is not a security according to the Risk Capital test. This discussion mirrors the analysis associated with the "another's efforts" prong of the Howey test. The MBN was designed as a functional network. Without utilization of the Platform by token holders (including maintenance and security functions performed by master nodes), the tokens will have no value. Thus, the conduct of «investors» [sic.] cannot be passive.

With regard to the fourth prong, the MBN decentralized Platform is operated by the tokenholders, which are neither owned nor controlled by Membrana LTD. Thus, it is the holders of MBN themselves who fund, operate and conduct the enterprise.

3.2. Republic of Singapore.

This section sets forth our firm's legal opinion as to whether the MBN would likely constitute an ownership interest in Membrana LTD assets or property for the purposes of Singapore's Securities and Futures Act.

Following the SEC's DAO Report, Singapore's financial regulatory body and central bank, the Monetary Authority of Singapore ("MAS"), clarified its own position and treatment of token offerings.

The statement indicated that the offer or issue of digital tokens in Singapore would be regulated by MAS if the digital tokens constitute products regulated under the Securities and Futures Act (Cap. 289) ("SFA"). Specifically,

where digital tokens fall within the definition of securities in the SFA, issuers of such tokens are required to issue and register a prospectus with MAS before the offering of such tokens, unless otherwise exempted.

Digital tokens may be securities subject to the SFA where they represent ownership or a security interest over an issuer's assets or property and may therefore be considered an offer of shares or units in a collective investment scheme.

However, the MAS guidance leaves open the possibility that not all token sales are subject to the SFA and that some token sales may be distinguishable from equity or debt interests in the issuer or its assets. To date, MAS has not explicitly declared that SFA applies to utility tokens. Thus, similarly to the SEC regime, there appears to be an implied carve-out for utility tokens.

Here, applying the Howey analysis above, the issuance of MBN in exchange for cryptocurrency does not appear to trigger the SFA securities laws since MBN functions as a utility token rather than a representation of equity or debt interests.

3.2.1. Overview of applicable legislation.

In November 2017 MAS issued a Guide to Digital Token Offerings, attempting to clarify its position on cryptocurrency and other electronic tokens. The essence of the statement was that, to the extent the subject of the token came under the purview of existing law, such law would apply. Obviously, this requires an analysis of existing Singapore law. There are two general areas of importance, (1) whether MBN is a capital market product or (2) whether it is covered as a stored value facility (SVF), which legislation actually contemplates the concept of electronic transactions.

3.2.2. Capital market products.

Section 2.—(1) of the SFA, provides a detailed and multi-layered definition of capital markets products. Without providing all of those definitions here, it suffices to say that such regulated products include the following: any securities, futures contracts, foreign exchange trading, and other financial arrangements.

The principles which underlie the analysis regarding the U.S. law above and E.U. law below are applicable here. MBN tokens are not stock or any other kind of security. The holder is not in business with the issuing entity. The utilitarian nature of the MBN token means that it is readily distinguishable from securities and the other categories of capital markets products under Singapore law and will most likely not be subject to regulation.

3.2.3. Stored value facilities.

Singapore has enacted legislation that contemplates electronic forms of payment. The question is whether the code-based nature of MBN will cause it to come under the purview of the PSOA,1 which stored value facilities (SVF).

The definition of SVF can be found at Section 2.—(1) of PSOA. The key feature, for the purpose of a MBN analysis, is that an SVF is readily negotiated as payment for goods and services. Such a use is inconsistent with the code and policy of MBN as set forth in the White Paper. While it is possible to purchase the MBN by paying a sum of money to Membrana LTD Membrana LTD, such a sum of money will not be available for making any payments by the user, and thus cannot be considered a stored value. Thus, it is unlikely that regulations of the stored value facilities are applied to the Membrana LTD.

[1] Payment Systems (Oversight) Act (Chapter 222A of the laws of Singapore).

3.2.4. Singapore overview.

The MBN is unlikely to be considered a capital market instrument according to the Singapore legislation. Furthermore, it is unlikely that regulations on stored value facilities can be applied to the Company in regard to the issuance or listing of the tokens.

3.3 Canada.

This section sets forth our firm's legal opinion as to whether the MBN token crowdfunding event would likely constitute a securities offering for purposes of Canadian securities law.

The leading Canadian Supreme Court case for determining whether an instrument meets the definition of security is Pacific Coast Token Exchange v. Ontario Securities Commission, [1978] 2 S.C.R. 112, which essentially adopts the Howey test. The Court in Pacific Coast articulated the test as follows:

(i) an investment of money;

(ii) in a common enterprise;

(iii) with the expectation of profit;

(iv) to come significantly from the efforts of others.

Most recently, the Canadian Securities Administrators («CSA») released guidance on treatment of cryptocurrency offerings and revealed that tokens that function like securities under the Pacific Coast test will be treated as such. The securities laws of Canada will apply if (1) the person or company selling the securities is conducting business from within Canada; or (2) if there are Canadian «investors».

Thus, if there were Canadian involvement in the crowdfunding effort, then what is essentially a Howey analysis is required. The discussion set forth above, in connection with U.S. law, would be similarly applicable here. After careful review of the nature and utility of the MBN, it will not be determined to be a security under Pacific Coast, and Canadian securities regulation will not apply.

3.4 China.

This section sets forth our firm's legal opinion as to whether the MBN token crowdfunding event will be lawful in China. Most recently, the People's Bank of China («PBOC») has announced that virtual currency transactions are «unapproved» illegal activities. The announcement is functionally an indefinite freeze on all ICOs and token sales. The ban applies regardless of the characterization of the tokens. As such, marketing or selling MBN tokens to Chinese citizens would be unlawful. On the other hand, MBN is arguably not a virtual currency. It is a cryptographically secured asset in a blockchain-based network that has utility only within that network.

As with purchasers from every other country, any Chinese purchasers would make, or have made, their purchases subject to the Membrana LTD Membrana LTD Terms and Conditions. Each participant formally declared that by proceeding with the purchase, they were acting in accordance with relevant legislation and regulations of all jurisdictions applicable to the participant.

3.5. European Union.

According to the statement issued by ESMA[2] on November 13, 2017[3], the firms conducting ICOs shall meet the requirements imposed by the relevant Directives, including MIFID II, UCITS Directive[4] and AIFMD[5].

3.6.1. Financial Instruments.

Financial instruments are defined by the Article 4(1)(15) of MIFID II as those instruments specified in Section C of Annex I of MIFID II; They are the following:

(1) Transferable securities;

(2) Money-market instruments;

(3) Units in collective investment undertakings;

(4) Options, futures, swaps, forward rate agreements and any other derivative contracts relating to securities, currencies, interest rates or yields, emission allowances or other derivatives instruments, financial indices or financial measures which may be settled physically or in cash;

(5) Options, futures, swaps, forwards and any other derivative contracts relating to commodities that must be settled in cash or may be settled in cash at the option of one of the parties other than by reason of default or other termination event;

(6) Options, futures, swaps, and any other derivative contract relating to commodities that can be physically settled provided that they are traded on a regulated market, a MTF, or an OTF, except for wholesale energy products traded on an OTF that must be physically settled;

(7) Options, futures, swaps, forwards and any other derivative contracts relating to commodities, that can be physically settled not otherwise mentioned in point 6 of this Section and not being for commercial purposes, which have the characteristics of other derivative financial instruments;

(8) Derivative instruments for the transfer of credit risk;

(9) Financial contracts for differences;

(10) Options, futures, swaps, forward rate agreements, and any other derivative contracts relating to climatic variables, freight rates or inflation rates or other official economic statistics that must be settled in cash or may be settled in cash at the option of one of the parties other than by reason of default or other termination event, as well as any other derivative contracts relating to assets, rights, obligations, indices and measures not otherwise mentioned in this Section, which have the characteristics of other derivative financial instruments, having regard to whether, inter alia, they are traded on a regulated market, OTF, or an MTF;

(11) Emission allowances consisting of any units recognized for compliance with the requirements of Emission Directive. It is necessary to individually assess each of these instruments and determine whether

[2] The European Securities and Markets Authority.

[3] https://www.esma.europa.eu/press-news/esma-news/esma-highlights-ico-risks-investors-and-firms.

[4] Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (OJ L 302, 17.11.2009, p. 32–96).

[5] Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (OJ L 174, 1.7.2011, p. 1–73).

the MBN can be considered one of these. For the purpose of this analysis, instruments listed in Annex I Section (C) (4) –

(10) can be grouped together as the derivative financial instruments.

3.6.2. Transferable securities

Transferable securities are defined in Article 4(1)(44) as those classes of securities which are negotiable on the capital market, with the exception of instruments of payment, such as:

(a) shares in companies and other securities equivalent to shares in companies, partnerships or other entities, and depositary receipts in respect of shares;

(b) bonds or other forms of securitized debt, including depositary receipts in respect of such securities;

(c) any other securities giving the right to acquire or sell any such transferable securities or giving rise to a cash settlement determined by reference to transferable securities, currencies, interest rates or yields, commodities or other indices or measures.

Although no formal test for defining an instrument as a transferable security has been devised by the European regulator, the key characteristics of a transferable security can be derived. Such characteristics would consist of three formal criteria and a substantive one.

The formal criteria would be transferability (meaning that the units shall be able be assigned to another person), negotiability (meaning that the units can be transferable with ease), and standardization (meaning that the units are sufficiently standardized for the purposes of the ease of search and purchase).

In case of the MBN token (as with practically any other kind of token) all these criteria are fulfilled: tokens can be effortlessly transferred between addresses, and all MBN are the same, which shows considerable standardization.

The fourth criterion requires a substantive comparison to a non-exhaustive list of instruments in the MIFID II. All of these items are considered securities and subject to regulation. By comparing and contrasting the asset in question, a determination can be made if it is a security or not.

The examples provided are actual shares and their equivalent, bonds or other forms of securitized debt, and the derivative instruments that give the right to acquire such securities or giving rise to the cash settlement.

MBN tokens are neither shares nor bonds; their holders are not entitled to fixed income as provided by bonds Nor does MBN grant holders an equity stake in any corporation or any other rights, typically associated with stock or its equivalent, such as the right to receive a share of the revenue of the respective business or the right to vote or otherwise define the course of business of the issuer. MBN holders do not have the right to acquire any such securities, and there is no cash payout that arises from holding the MBN, since no obligation of payment exists in regard to the MBN holders.

It is unlikely for the MBN to be considered transferable securities under MIFID II.

3.6.3. Malta.

At the moment, in Malta, the cryptocurrency market is mostly unregulated.

Presently, Bittoken and other cryptocurrencies are not considered, as regulated instruments under MiFID [6] and any company that handles cryptocurrencies are not required to undergo any form of licensing process with the MFSA (Mata Financial Services Agency).

The only exception to this rule is if the token can be considered as an investment instrument under the Investment Services Act, and if they did, they would trigger the obligations of the act.

However, a detailed analysis has been given above and Malta's legislation does not make exceptions for cryptocurrencies if the token is not an investment tool in its legal essence.

According to the statement issued by ESMA7 on November 13, 20178, the firms conducting ICOs shall meet the requirements imposed by the relevant Directives, including MIFID II, UCITS Directive910 and AIFMD11.

It is interesting that in Malta have been prepared and are waiting for the life of the bills that provide that «***token means a form of digital medium recordation that has no utility, value or application outside of the Network on which it was issued and that cannot be exchanged for funds on such Network or with the issuer of such Network asset***».

MBN has no utility, value or application outside of the Network on which it was issued and that cannot be exchanged for funds on such Network or with the issuer of such Network asset.

3.7. U.A.E.

However, nowadays the laws of the United Arab Emirates do not directly prohibit the public offering of digital assets. With respect to the UAE, from an issuer's perspective, the relevant regulatory bodies to consider are the Dubai International Financial Centre (DIFC), the Securities and Commodities Authority (SCA) and the Abu Dhabi Global Markets (ADGM).

Generally, the position in the UAE is that ICOs are not currently regulated and there is, therefore, no source of legislation that deals specifically with the topic, nor any restrictions that apply to the manner in which a token offering should be implemented.

The Abu Dhabi Global Market (ADGM) issued supplementary guidance through the Financial Services Regulatory Authority (FSRA) on the Regulation of Initial Token/Token Offerings and Virtual Currencies under the Financial Services and Markets Regulations (FSMR)' in October 2017 (the «guidelines»).

The guidelines seek to provide some direction as to how ICOs are to be treated by local authorities and regulators. They state that if ICOs are deemed to be an offering of «Security Tokens», as opposed to «Utility Tokens», they will be subject to governance by the FSRA.

[6] Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349–496).

[7] The European Securities and Markets Authority.

[8] https://www.esma.europa.eu/press-news/esma-news/esma-highlights-ico-risks-investors-and-firms.

[9] Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (OJ L 302, 17.11.2009, p. [10] –96).

[11] Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (OJ L 174, 1.7.2011, p. 1–73).

The guidelines specifically state that whether an ICO is to be regulated will be assessed by the FSRA on a 'case-by-case basis' and, significantly, if ICO tokens are deemed to exhibit the characteristics of a security, the FSRA may subject them to the same regulatory obligations.

Specifically, under Sections 58 to 71 of FSMR and Chapter 4 of the Markets Rules, "when an Issuer wishes to make an Offer of Securities to the Public in or from the ADGM, these requirements include, for example, the obligation to publish a Prospectus under Section 61 of FSMR".

The guidelines further explain, «not all ICOs constitute an Offer of Securities under the FSMR or Market Rules».

«Where tokens do not have the features and characteristics of Securities such as Shares, Debentures or units in a fund, the offer of such tokens is unlikely» to be considered as a securities offer, the guidelines state, and are therefore not likely to be regulated as one.

As a result, an issuer seeking to launch an ICO in or from the ADGM should approach the FSRA at the earliest opportunity to ensure that its offer is properly categorized and, therefore, exempt from FSMR regulations.

The Securities and Commodities Authority (SCA), which regulates the UAE's financial and commodities markets, issued a circular on 2 February 2018 warning investors against digital, token-based fundraising activities (including ICOs). The SCA further reiterated that it does not recognize, regulate or supervise any ICO presently and that ICO investments are not offered legal or regulatory protection. Moreover, existing securities regulations and requirements may be applicable to your proposed model now, even if your documentation (Information Memorandum and White Paper) seeks to clarify that your token offering is one of utility and not as a security. There remains a risk that regulators will treat the ICO as a securities offering, including potentially retrospectively.

Conclusion. However, nowadays the laws of the United Arab Emirates do not directly prohibit the public offering of digital assets. Currently, laws and taxes regarding ICOs are not established completely, including in UAE. Moreover, in the near future, we can expect governments to make a decision whether to ban, limit or tax ICOs. This could lead to restrictions in token possession and trading and could affect adversely on individuals in ways we could not predict.

3.8. Hong Kong.

The SFC in Hong Kong considers digital tokens to be virtual commodities, which are not themselves securities. Although Hong Kong has not yet issued any cryptocurrency specific laws, the SFC released a statement on initial token offerings on September 5, 2017. The statement outlines that ICOs are considered securities where tokens represent shares, debentures, or interests in a collective investment scheme. Where an ICO is considered a security, registration or authorization requirements under the law may be triggered unless an exemption applies.

The CLO offering does not entitle purchasers to ownership rights in any of the Redacted projects nor does CLO have an obligation to repay token holders the principle of their investment on a fixed date or upon redemption. Instead, CLO may be redeemed for services within the platform.

Collective Investment Scheme (CIS)

Collective investment schemes (CIS) are defined by the SFC in Schedule 1 to the SFO. A CIS generally has four elements. It must involve an arrangement in respect of property; participants do not have day-to-day control over the management of the property; the property is managed as a whole by or on behalf of the person operating the arrangements, and/or the contributions of the participants and the profits or income from which payments are

made to them are pooled; and the purpose or effect of the arrangement is for participants to participate in or receive profits, income or other returns from the acquisition or management of the property.

The CLO agreement is an arrangement with respect to CLO, a virtual commodity. CLO purchasers manage the ERC20 token enabled wallet and, therefore, the private keys to CLO. Because purchasers have control over the virtual commodity, the ICO is unlikely to be considered a collective investment scheme. CLO platform is designed to make smart-contracts easier to use, but purchasers can exercise full control over the CLO virtual commodity and may transfer CLO independently of the Membrana. To be considered a CIS, the purpose or effect of the arrangement is for participants to participate in or receive profits, income or other returns from the acquisition or management of the property. Therefore, the primary purpose of purchasing an apptoken such as CLO is for its consumptive value rather than for an expectation of profit.

Therefore, the Membrana token - CLO is unlikely to be considered a security under Schedule 1 to the SFO.

4. Conclusion

This Legal opinion was prepared to address the following concerns:

1. Whether or not Membrana LTD's issuance of MBN tokens constituted a security contract between an issuer and an investor; and
2. Whether or not the MBN token has status as a security.

As a result of this analysis of specified international law, this author offers the following legal opinion:

1. **It is very unlikely that Membrana LTD's issuance of MBN tokens would be considered a security contract; and**
2. **It is unlikely that the MBN would be considered a security by the SEC.**
3. **It is very likely that the MBN is the real Utility Token.**

Very Truly Yours,

Head of Legal Department. Partner.

Lawyer Makarov Dmitry

ANNEX N 1 to Legal opinion.

Taking into account the various requirements of the exchanges in the form of a test, we apply the test method.

THE HOWEY TEST

A Securities Law Framework for Blockchain Tokens to estimate how likely a particular blockchain token is to be classified as a security under US federal securities law.

Instructions:

Step 1: Review each characteristic and determine whether or not it applies to the token.

Step 2: Select Y or N for each characteristic from the drop down menu.

Step 3: Review results at the bottom of this page.

Element 1: Investment of Money				
Is there an investment of money?				
Characteristic	Points	Explanation	Examples	Y or N
There is no crowdsale.	0	Tokens which are not sold for value do not involve an investment of money. For example, if all tokens are distributed for free, or are only produced through mining, then there is no sale for value.	The only way to acquire new bittoken is via mining. A token which is randomly distributed for free. Token can only be acquired through mining or on an exchange, or by burning tokens (as alternative to exchange).	N
Tokens are sold for value (crowdsale).	100	Tokens which are sold in a crowdsale, at any time, regardless of whether sold for fiat or digital currency (or anything else of value) involve an investment of money.	A token which is sold for bittoken in a crowdsale. A token which is sold for ether in a crowdsale.	Y
Some of the tokens were distributed by airdrop.	-20	The distribution of tokens is not investment purposes	For example, non-commercial application	N
Total for Element 1				**100**
Element 2: Common Enterprise				
What is the timing of the sale?				
Characteristic	Points	Explanation	Examples	Y or N
Pre-deployment	70	A sale of tokens before any code has been deployed on a blockchain is more likely to result in a common enterprise where the profits arise from the efforts of others. This is because the buyers are completely dependent on the actions of the developers, and the buyers cannot	A developer has an idea for a new protocol, writes a White Paper, MVP and does a crowdsale.	N

		actually participate in the network until a later time.		
The protocol is operational on a test network	60	If there is a functioning network there is less likely there is to be a common enterprise where the profits arise from the efforts of others. The closer the sale is to launch of the network, the less likely there is to be a common enterprise.	A developer has an idea for a new protocol, writes a white paper and deploys a working test network before doing a crowdsale.	N
Live network is operational	50	If the token is sold once there is an operational network using the token, or sold immediately before the network goes live, it is again less likely to result in a common enterprise.	The crowdsale is done at the same time the network is launched. MBN were created with the live network, not before.	Y
What do token holders have to do in order to get economic benefits from the network?				
Characteristic	**Points**	**Explanation**	**Examples**	**Y or N**
All token holders will always receive the same returns	25	If returns are paid to all token holders equally (or in proportion to their token holdings) regardless of any action on the part of the token holder, then their interests are more likely aligned in a common enterprise.	«HodlToken» holders are automatically paid an amount of ETH each week, based on fees generated by other users of the network. Token does not pay any return, and there is no way to earn more tokens within the network (but they can be bought, sold or traded).	N
There is a possibility of varying returns between token holders, based on their participation or use of the network	-20	If token holders' returns depend on their own efforts, and can vary depending on the amount of effort they each put in, then there is less likely to be a common enterprise.	'Token' holders can earn more tokens by providing data storage on the network, or can spend tokens to access data storage. Holders who do not provide data storage do not earn any more tokens.	Y
Total for Element 2				**30**
Element 3: Expectation of Profit				
What function does the token have?				
Characteristic	Points	Explanation	Examples	Y or N
Ownership or equity interest in a legal	100	Tokens which give, or purport to give, traditional equity, debt or	A developer releases and sells 100 'BakerShares' tokens. Each token	N

entity, including a general partnership		other investor rights are almost certainly securities. If one or more of these characteristics apply, the token is almost certainly a security, notwithstanding the results of the other elements.	entitles the holder to 1 share in Baker, Inc. A developer releases and sells 100 'BakerProfit' tokens. Each token entitles the holder to 1% of the profits of Baker, Inc. for the next year. A developer releases and sells 100 'BakerDebt' tokens. Each token entitles the holder to principal and interest repayments based on the initial token sale price.	
Entitlement to a share of profits and/or losses, or assets and/or liabilities	100			N
Gives holder status as a creditor or lender	100			N
A claim in bankruptcy as equity interest holder or creditor	100			N
A right to repayment of purchase price and/or payment of interest	100			N
No function other than mere existence	100	A token which does not have any real function, or is used in a network with no real function, is very likely to be bought with an expectation of profit from the efforts of others, because no real use or participation by token holders is possible. Voting rights alone do not constitute real functionality.	A developer releases and sells 100,000 'SocialToken' tokens to fund the development of a new Social Network. However, SocialToken is not required to access the network and has no real function after the sale.	N
Specific functionality that is only available to token holders	0	A token which has a specific function that is only available to token holders is more likely to be purchased in order to access that function and less likely to be purchased with an expectation of profit.	'CloudToken' is the only way to access and use a decentralized file storage network. MBN has three main functions: 1. As Crypto Token users can pay for products and services on all our platforms; 2. As the currency that interacts with the blockchain docademic stores patient and healthcare data in.	Y
Does the holder rely on manual, off-blockchain action to realize the benefit of the token?				
Characteristic	Points	Explanation	Examples	Y or N
Manual action is required outside of the network (e.g. off blockchain) in order for the holder to get the benefit of the token	80	A token whose value depends on someone taking specific manual action outside of the network means that the token is not functional in and of itself. Instead, the token relies on a level of trust in a third party taking action off-blockchain. This sort of token is more likely to be bought for speculation - i.e. the expectation of profits.	A developer releases and sells 'FreightToken', which will allow the holder to pay FreightToken to access capacity on a new real-world freight network. The network relies on legal contractual relationships and manual actions. (This alone does not make FreightToken a security).	N

All functionality is inherent in the token and occurs programmatically	0	A token which is built with all the necessary technical permissions means that the token holder does not rely on manual actions of any third party. This means that the buyers are more likely to purchase the token for use rather than with the expectation of profit from the efforts of others.	Holders of 'SongVoteToken' can sign transactions on the network as votes for their favorite new songs and earn rewards for doing so.	Y
What is the timing of the sale?				
Characteristic	Points	Explanation	Examples	Y or N
Pre-deployment	20	A sale of tokens before any code has been deployed on a blockchain is more likely to result in buyers purchasing for speculative reasons with the expectation of profit, rather than practical use cases.	A developer has an idea for a new protocol, writes a White Paper and does a crowdsale.	N
The protocol is operational on a test network	10	If the sale occurs after code has been deployed and tested, the token is closer to being able to be used.	A developer has an idea for a new protocol, writes a white paper and develops a working test network before doing a crowdsale.	N
Live network is operational	0	If the token is sold once there is an operational network using the token, or immediately before the network goes live, it is more likely to be purchased with the intention of use rather than profit.	The live network is launched before the crowdsale. Token were created with the live network, not before.	Y
Can the token holders exercise real and significant control via voting?				
Characteristic	Points	Explanation	Examples	Y or N
Token holders as a whole are able to control the development team's access to funds.	-20	If the collective approval of token holders is required in order for the development team to access the funds raised in the crowdsale, then any value realized by the token holders is more closely tied to their own decisions, and less reliant on the efforts of others.	A development team sells 100,000 Tokens for a total of 100,000 ETH. 50,000 ETH will be released from the token contract to the development team immediately, but the remainder is only released once milestones are met, which requires approval of a majority of the token holders each time. If the milestones are never met, the remaining ETH will be returned to the token holders.	N
Token holders as a whole are able to vote on significant decisions for the protocol.	-10	If the collective approval of token holders is required in order to make significant changes to the protocol, then any value realized by the token holders is more closely tied to their own decisions,	Changes to the protocol require a vote by token holders.	N

		and less reliant on the efforts of others.		
Note: Voting rights must be in addition to functionality. A token with voting rights alone and no other real functionality is very likely to satisfy Element 3				
How is the token sale marketed?				
Characteristic	Points	Explanation	Examples	Y or N
Marketed as an 'Initial Token Offering' or similar	50	It is not possible to prevent some buyers from buying a token purely for speculation. However, marketing the token as an investment leads buyers to believe they can profit from holding or trading the token, rather than from using the token in the network. Using terms like 'Initial Token Offering' or 'ICO', and investment-related language like 'returns' and 'profits' encourages buyers to buy a token for speculation, rather than use.	'ProfitToken' includes potential of 'high ROI' and 'investor profits' in its marketing material.	N
Marketed as a Token Sale	0	Marketed as a sale of tokens which give the right to access and use the network.	MBN are tokens which give the right to access and use the MBN network.	Y
There is no economic return possible from using the network	-100	If there is genuinely no economic return possible for the token holders, then there is unlikely to be a common enterprise. This will be rare.	Backers contribute to a cause and receive a 'thank you' token which has no economic value.	N
Total for Element 3				0
Element 4: Solely from the Efforts of Others.				
The founders of MBN has any ability to effect on the token price.	10	Current token price depends more on the network activity and dynamics of actions of the token holders then the efforts of founders. The founders of the project can affect the price of the token only indirectly, for example, through their personal image / standing.	Thus, we must strictly separate two different legal definitions such as "profit" and other types of "income». Because in the context of securities laws the «Expectation of Profits» means the Right to profit from the company's activities («… from the managerial efforts of others»), and this means – «Expectation of "Net profit". Because, the «Net profit» is a result of the managerial efforts of others, including, for example, such managerial efforts as a paying taxes. The «… others» means «not the	Y
The market price of token does influence company profit.	50	The company's profits and users ' incomes are not related to each other.		N
The company profit does influence the token market price.	50	The company's profits and users ' incomes are not related to each other.		N

The market price of the token does not depend on the actions of the token holders.	50	Current token price depends on the statistics of events (network activity) and dynamics of actions of the token holders.	token buyers». The whitepaper contains no declarations of promises of income to token buyers and gives no «Expectation of Profits» to buyers. There is no share of company's profits for token holders. Token income can only be generated by participants own efforts of mining and validating transactions on the network	N
Total for Element 4:				**10**

Conclusion – the Howey Test

Results			
Guide			
Total points	How likely is the element to be satisfied?	Total for Element 1:	100
0 or less	Very unlikely	Total for Element 2:	30
1 – 33	Unlikely	Total for Element 3:	0
34 – 66	Equally likely and unlikely	Total for Element 4:	10
67 – 99	Likely		
100 or more	Very likely	Overall Risk Score	0

A Token will only be a security if it satisfies all four elements. The higher the score for each item, the greater the probability that the item will be satisfied.

The lowest point score from all four elements represents your overall risk score. We have not been able to identify any relationship for the issue and purchase of securities.

Our firm has conducted a thorough analysis under the Howey test to determine whether or not your token may qualify as a utility token. We can safely assume that the MBN token will not be deemed as a security per the Howey Test. It is **unlikely** that the MBN Token would be considered a security by the SEC US.

Very Truly Yours,

Head of Legal Department. Partner.

Lawyer Makarov Dmitry