

Via e-mail:
hello@vitainu.org

Dear Tyler Miller,

With the reference to your instructions on behalf of Vita Inu Coin issuer (the **Token Issuer**), we have prepared this legal opinion (the **Opinion**) on Lithuanian law aspects effective on the date of the Opinion and relevant to the features of Vita Inu Coin (**VINU**). In particular, the Opinion addresses the question whether VINU should be considered as financial instrument under the Law on Markets in Financial Instruments of the Republic of Lithuania (the **Law on MiFI**).

1. BACKGROUND INFORMATION

According to the information provided to us, the Token Issuer, a co-founder of a community of Directed Acyclic Graph (the **DAG**) enthusiasts, which was initially set up to bridge the Vite and Nano cryptocurrencies and communities (the **ViNo community**), has issued VINU on the Vite blockchain (**Vite**). Vite uses a DAG ledger structure, whereas smart contracts are implemented on the basis of a DAG ledger and is a low-latency and highly scalable network (the **Vite network**). One of the aims of the Vite network is to bridge different blockchains in a decentralised way. The Vite network has a snapshot mechanism, which main function is to maintain consensus on Vite's ledger. Snapshot blocks are created by "nodes", which are called Snapshot Block Producers (the **SBPs**).

Pursuant to the information provided to us, VINU is a payment token and it can be obtained by (i) participating in the Vita Inu community, e.g. creating posts, memes, entering contests or (ii) exchanging VINU against other tokens. By exchanging VINU against other tokens on ViteX Exchange (**ViteX**), users become Vite holders. Vite holders can vote for SBPs, and the top 100 SBPs with the most votes will be allowed to produce blocks. SBPs distribute a significant portion of their daily SBP rewards to their votes, as a way of rewarding them. Vite holders who are interested in supporting VINU may vote for the ViNo SBP. Such voting will allow Vite holders to receive daily Vite rewards (the **Vite rewards**) and additional VINU tokens as rewards. Receiving additional VINU tokens means that these Vite holders will end up receiving more rewards, compared to those simply voting for an SBP that does not distribute additional tokens.

Noteworthy, 25% of the total supply of VINU was distributed freely to the public, 25% of the supply of VINU is reserved as a payment for the contribution of the project team members and remaining 50% of the total supply of VINU is reserved for VINU Decentralised Autonomous

Organisation (the **DAO**). Please note that the scope of this Opinion does not include the analysis of VINU once it will be transformed to the DAO.

Based on the information provided to us and for the purposes of this Opinion, we made the following assumptions (which we have taken no steps to verify):

- (i) VINU entitles its holders to participate in Vite network, including vote for the SBPs and does not entitle its holders to participate in the decision making of the Vite network or the Token Issuer, obtain dividends, assets or other payments from the Vite network or the Token Issuer;
- (ii) Vite rewards does not include any part of the profit of the Vite network;
- (iii) Where VINU will be exchanged against fiat, an authorised third party service provider will be used;
- (iv) The Token Issuer will not arrange any initial coin offering (the **ICO**) in the Republic of Lithuania;
- (v) The Token Issuer is not a legal person established in the Republic of Lithuania or a Lithuanian branch of a legal person established in another EU Member State or a foreign state;
- (vi) The Token Issuer will not act as a custodian of the digital wallets and third party service provider is used;
- (vii) Our analysis is based solely on the information provided to us via video conference on 6 December 2021 and the Vita Inu Whitepaper;
- (viii) The Token Issuer will not act as a payment intermediary between any parties.

2. SUMMARY CONCLUSIONS

Subject to qualifications, assumptions, reservations and more detailed analysis throughout this Opinion, and as far as Lithuanian law is concerned, it is our professional understanding that VINU should not be considered as having essential characteristics of a financial instrument under the Law on MiFI and is not subject to any financial services licenses or permissions.

3. LEGAL ANALYSIS

3.1. General overview

The Lithuanian law does not provide a single agreed definition for ‘virtual-assets’, ‘crypto-currency’ or ‘crypto-assets’, and activities related to ‘virtual-assets’ in Lithuania are in general deemed as unregulated. Notably, only the Law on Prevention of Money Laundering and Terrorist Financing of the Republic of Lithuania (the **Law on AML**) provides a definition of virtual currency. The Law on AML defines virtual currency as an instrument with a digital value but no legal currency or monetary status, and which is not issued or guaranteed by a central bank or other public authority and which is not necessarily attached to a currency, but is accepted by natural or legal persons as a means of exchange and which can be transferred, stored and traded electronically. Though this definition is strictly applicable only for the purposes of the Law on AML, this is the only definition related to ‘crypto-assets’ in Lithuanian legislation. It should be also noted that the Bank of Lithuania (the Lithuanian financial supervision authority) has published the Guidelines for Offering Tokens with the Characteristics of Securities approved by the Board of the Bank of Lithuania on 17 October 2019 (the **Guidelines**) where the regulator has defined that crypto-assets are cryptographically secured digital representations of value or contractual rights that use some type of distributed ledger technology (DLT) and can be transferred, stored or traded electronically.

3.2. Potential financial regulatory implications

Under the Law on Financial Institutions of the Republic of Lithuania (**Law on FI**), provision of licensed financial services without having a licence is prohibited¹. Under legal acts of the Republic of Lithuania, licensed financial services include payment services, issue of electronic money, deposit-taking from non-professional market participants, other financial services that may be provided only with a licence issued following other laws of the Republic of Lithuania, e.g. consumer lending, mortgage loans, etc.

Taking into account the features of the services to be provided by the Token Issuer, we have analysed if these services could potentially trigger one of the following regulatory regimes:

- (i) The receipt of deposits and other repayable funds from non-professional market participants under the Law on FI and/or the consumer credit provision activity under the Law on Consumer Credit of the Republic of Lithuania;
- (ii) The provision of investment services and investment activities under the Law on MiFI implementing, among others, 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 (**MiFID II**);
- (iii) The provision of payment services under the Law on Payments of the Republic of Lithuania (the **Law on Payments**) or electronic money services under the Law on Electronic Money and Electronic Money Institutions (the **Law on EMI**).

3.3. Receipt of deposits and other repayable funds

According to Art. 2(17) of the Law on FI, receipt of deposits and other repayable funds from non-professional market participants² means the receipt of funds from the public for the purpose of managing, using and/or disposing them, with an obligation to repay them with or without interest. Further, pursuant to Art. 3(4) of the Law on FI only a credit institution (i.e. bank or credit union) have the exclusive right to receive deposits and other repayable funds from non-professional participants of the market. It shall not be considered the receipt of deposits or other repayable funds from non-professional participants of the market: (i) the receipt of monetary funds from users of payment services for the purpose of provision of payment services; (ii) the receipt of monetary fund's where the funds accepted are immediately exchanged into issued electronic money³.

We understand that in no case the Token Issuer will receive fiat money in exchange for VINU, thus, further analysis will not be provided.

3.4. Provision of investment services

Pursuant to the Guidelines, in cases where coins released during the initial coin offering (the **ICO**) have characteristics of securities (grant the right of ownership, company management, or grant other rights to shareholders, such as the right to receive part of the company's profit in the form of dividend or otherwise, provide for payment of interest or redemption of coins, etc.)

¹ Articles 3(2), 3(3) of the Law on FI.

² Pursuant to Art. 2(30) of the Law on FI, non-professional market participants shall mean all persons, with the exception of the Bank of Lithuania, financial institutions, insurance undertakings as well as other persons qualified to assess the borrowing risk.

³ Article 2(17) Law on FI.

and may be transferred to other persons as well as traded in the secondary market or at organized trading venues, their offering is subject to the provisions of the Law on Securities of the Republic of Lithuania (the **Law on Securities**).

If VINU would have characteristics of securities as provided above and could be transferred to other persons as well as traded in the secondary market or at organised trading venues, their offering would be subject to the provisions of the Law on Securities and the Law on MiFI. In such case the Token Issuer would, *inter alia*, be required to prepare and publish a prospectus which is also subject to approval by the Bank of Lithuania. Further, activities related to distribution, acceptance, execution of transfers, custodian, provision of investment recommendation services, arranging trading facilities, etc. could be performed only by licensed financial intermediaries subject to the requirements of the Law on MiFI.

The Law on MiFI foresees that (with some exceptions) investment services on a regular and professional basis in the Republic of Lithuania may be provided only by financial brokerage firms holding a license of a financial brokerage firm issued by the Bank of Lithuania or a supervisory authorities of another Member States (Art. 4(1) of the Law on MiFI). Investment services mean any services or activities provided in Article 3(25) of the Law on MiFI and relating to one or more financial instruments provided in Article 3(15) of the Law on MiFI (notably, lists of investment services and financial instruments provided in the Law on MiFI reflects lists provided in Sections A and C of Annex I of MiFID II).

For the purposes of determining whether VINU should be considered as financial instrument under the Law on MiFI, we have limited our analysis to the definitions of transferable securities and certain derivatives financial instruments, in particular, options, as, in our professional view, VINU should not be considered as potentially having characteristics of other type of financial instruments indicated in the Law on MiFI.

(i) Shares

In our professional view, VINU should not be considered as shares in a company or securities equivalent to shares in a company due to the following reasons:

1. VINU does not grant its holder any equity interest in, or any right to future participation in the equity of the Token Issuer.
2. VINU does not grant its holder the right to receive a part of the Token Issuer's profits.
3. VINU does not grant its holder any rights comparable to shareholder's rights (e.g. voting rights in the Token Issuer).

(ii) Bonds

VINU does not fall within the definition of a bond or other form of debt security as no indebtedness is created or represented by VINU which would entitle its holder to receive any payments from the Token Issuer or any third party. The VINU holder would not be able to claim any payment from the Token Issuer or any third party, and the Token Issuer would not have corresponding obligations to the holder of VINU.

(iii) Derivatives

Under the Law on MiFI, derivatives instruments, *inter alia*, include options, futures, swaps, forward rate agreements and any other derivatives contracts related to transferable securities, currencies, interest rates or yields, or other derivatives instruments, financial indices or financial measures which may be in commodities or cash. Most commonly value or price of derivatives relates to the value or price of an underlying commodity or underlying securities, currency

exchange rate, interest rate, stock index, credit rating or other variable. Derivatives (much like other financial instruments) are typically characterized by certain return on investment.

In this particular matter, value of VINU is not linked with any commodity, financial instrument, currency exchange rate, interest rate, stock index or any other variable. Furthermore, the Token Issuer will not guarantee that VINU will bring any financial returns, including rights to any other asset in the future.

Based on the above, VINU should not be considered as a derivative financial instrument as it is defined in the Law on MiFI, since VINU lacks essential features inherent to derivative financial instruments. Taking into account the information provided to us that the ownership of VINU does not entitle to obtain dividends, assets or receive any other payments from the Token Issuer and does not entitle to execute shareholder rights of any sort or interact in any other possible way with the underlying company or the Token Issuer, it is our professional assessment, that activity of the Token Issuer should not be subject to the Law on Securities or the Law on MiFI.

3.5.Provision of payment services and electronic money institution services

Under the Law on Financial Institutions of the Republic of Lithuania, provision of licensed financial services without having a licence is prohibited.

Payment services, under the Law on Payments, include, among others, the execution of payment transactions, including transfers of funds on a payment account with the payment service provider of the payment service user or with another payment service provider; execution of direct debits, including one-off direct debits, execution of payment transactions through a payment card or a similar device and/or execution of credit transfers, including standing orders⁴.

It should be noted that payment institution is not entitled to hold the funds of a client for a relatively longer time than necessary for the execution of a payment transaction; therefore, for the customers to be able to hold funds in payment cards or other technical instruments such as an ‘e-wallet’, a payment licence is not sufficient (in such a case, an e-money institution’s (EMI) or credit institution’s licence is necessary).

Law on EMI foresees⁵ that “electronic money” means a monetary value as represented by a claim on the issuer which is issued on receipt of monetary funds by the electronic money issuer from a natural or legal person and has the following characteristics:

- stored electronically (incl. magnetically);
- is issued for the purpose of making payment transactions;
- is received by persons other than electronic money issuers.

Based on information provided to us, the Token Issuer will not sell VINU for fiat and will not act as a payment intermediary between any parties. Where the fiat will be exchanged against VINU, a third party exchange operator and other third parties having necessary authorisations will be involved. Thus, there would be no key element of the payment service – a third party (intermediary) between the payee and the payer. Moreover, the Token Issuer will not provide digital wallet services. Therefore, the activities will not be subject to licensing requirements applicable to payment services and electronic money institution services.

⁴ Article 5(3) Law on Payments.

⁵ Article 2(1) Law on EMI.

3.6. Miscellaneous

As provided in section 3.1 of the Opinion, the Law on AML is applicable to subjects engaged in activities related to virtual assets. If the Token Issuer would become a legal person established in the Republic of Lithuania or a Lithuanian branch of a legal person established in another EU Member State or a foreign state providing custodian virtual currency wallet operator services or would offer VINU through such legal entity, the Token Issuer would become subject to requirements of Law on AML.

4. FINAL PROVISIONS

We are qualified to practice law in the Republic of Lithuania. We have made no independent investigation of the laws of any other jurisdiction other than the Republic of Lithuania as a basis for the analysis expressed herein and do not express or imply any analysis thereon. This analysis is given only with respect to Lithuanian law in force on the date hereof. We accept no responsibility for changes in law or any changes in facts, which arise after the above date, whether such changes are the result of formal amendment, practical implementation, subsequent interpretation or the failure to implement such legislation. We have no obligation to notify the recipient of this analysis of any change in Lithuanian law or its application after the above date.

This Opinion is given in the agreed scope only and does not include tax, data protection, gambling, competition or other specialist items.

Our advice is provided in an environment where laws and their interpretation may change relatively rapidly. There may also be situations where the law is ambiguous and/or where its consequences or implications are unclear. In these circumstances, our advice is, and can only be, based on our current understanding of the law and our reasonable professional judgment and may not coincide with opinions of courts, regulators or other state authorities.

This memorandum is confidential and is for your use only. It may not be disclosed to any third party without the prior written approval of Sorainen, save for disclosure, on a non-reliance basis, to crypto exchanges for the purposes of listing VINU.

This Opinion is a part of attorney-client communication and therefore protected by privilege under applicable law. This means that there are legal principles that prohibit any private person or state institution from inquiring about its content or attempting to get access to or copy it against your will.

Yours faithfully,



Augustas Klezys

Partner, Attorney-at-Law

For and on behalf of the Law Firm Sorainen & Partners