

Memo

To	Lim HongZhuang	From	Mohammed Reza, Grace Chong
		Date	25 July 2020
		Our ref	MRZ/GSLC
Subject	Regulatory advice regarding SZO	Client	Shuttle One Pte Ltd

1. OVERVIEW

- 1.1 We have been asked by Shuttle One Pte Ltd ("**ShuttleOne**") to review ShuttleOne's own proprietary utility token SZO to assess whether (i) SZO falls within the scope of a "capital markets product" under the Securities and Futures Act (Cap. 289) ("**SFA**"); and/or (ii) whether SZO will be classified as e-money or a digital payment token under the Payment Services Act 2019 (No. 2 of 2019) ("**PS Act**").
- 1.2 This advice is provided on the basis of the matters set out in section 2, and the assumptions set out in Appendix 1, having regard to the Singapore laws in force as at the date of this advice memorandum.
- 1.3 Based on our review:
 - SZO is not likely to fall within the scope of a "capital markets product", as it does not constitute a share, debenture, unit in a business trust, unit in a collective investment scheme ("**CIS**"), derivatives contract or spot foreign exchange contracts for the purposes of leveraged foreign exchange trading.
 - SZO is not likely to fall within the scope of "e-money" under the PS Act, as it is not denominated in fiat currency, and does not represent a claim on a centralised issuer.
 - SZO is not likely to be characterised as a "digital payment token", given that SZO can be used on the ShuttleOne platform only, and is not intended to be a medium of exchange accepted by the public, or a section of the public, as payment for goods or services or for the discharge of a debt. As such we view SZO to be similar to the utility token described in Case Study 1 of the Monetary Authority of Singapore's ("**MAS**") Guide to Digital Token Offerings (last updated on 26 May 2020) (the "**Guide**").

2. INFORMATION REVIEWED

2.1 For the purposes of our analysis, we have reviewed:

- the information set out in the ShuttleOne Cryptoeconomics paper, “The ShuttleOne Token Model” (last revised 29 January 2020) (the “**Paper**”); and
- the call with Lim Hongzhuang on 28 January 2020 in relation to the function and uses of SZO.

2.2 Apart from the above documents, we have not specifically reviewed or commented on any other documentation, in providing this advice. We have also assumed the correctness of the factual matters provided to us, whether or not referred to in this advice, and have made no investigation or verification of any factual matters(s) contained herein. We assume that there are no other facts that are relevant other than those which are stated in this advice.

3. ASSUMPTIONS

3.1 At this stage, we have provided guidance on how some of the key features of SZO are likely to be characterised, but these are subject to change if there are changes to the structure of SZO.

3.2 This memorandum of advice is subject to the assumptions listed in **Appendix 1**.

4. BACKGROUND

ShuttleOne

4.1 ShuttleOne will assist parties with the following services:

A. Remittance and money transfer

4.2 The ShuttleOne wallet will enable users to transfer funds and make cross-border transactions, by working with licensed providers in the jurisdictions where it operates.¹ This service will be made available to users in Singapore, Indonesia, Thailand, and Malaysia. Users will also be able to make peer to peer transfers to other users.

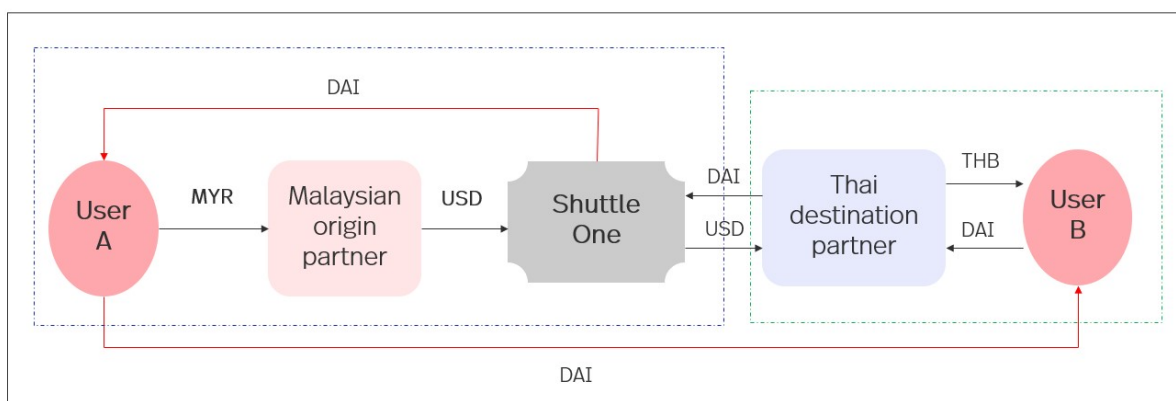
4.3 Withdrawals will only be permitted for the user to bank accounts under his own name, or to other users who have fully cleared anti-money laundering checks, to bank accounts under their own name.

4.4 For example:

- User A in Malaysia wishes to remit monies to User B in Thailand. User A will first go to its Malaysian origin partner to give them Malaysian Ringgit.
- TML will exchange the Malaysian ringgit for US dollars and send ShuttleOne the US dollars.

¹ Currently, ShuttleOne is working with TML Remittance Center Sdn. Bhd and other technology service providers TML Digital Sdn Bhd, PT Sehati Global Valsindo, and PT Aviana Sinar Abadi, to offer this service.

- ShuttleOne will issue DAI to User A using the US dollars collected at a fee. User A will get DAI in his ShuttleOne wallet, which he can send to User B based in Thailand.
- User B can get Thai Baht by executing the 'withdraw' function in his wallet, and getting local currency from its Thai destination partner.
- The Thai destination partner would thereafter exchange the DAI which it obtained from User B (which has been held in its wallet with ShuttleOne) for USD with ShuttleOne. ShuttleOne will provide the USD by executing a trade with a digital asset exchange or OTC broker to exchange DAI for USD.



B. Fiat-DAI conversion

- 4.5 ShuttleOne will assist to provide users and other customers that wish to obtain DAI, by issuing DAI from its proprietary DAI holdings in relation for fiat.

C. Micro-loans

- 4.6 ShuttleOne's assists businesses (small and medium-sized enterprises ("**SMEs**")) to obtain loans by leveraging DAI. ShuttleOne will facilitate loans for SMEs by facilitating the debt assessment process, so that collateral (eg. cars) can be more accurately assessed.
- 4.7 Various types of information are considered for the purposes of assessing the appropriate credit score, which will include:
- Company profile;
 - Corporate transactional and banking records; and
 - Surveyor / auditor verification and valuations of assets.
- 4.8 If an SME wishes to obtain a loan, they can obtain a loan from ShuttleOne by assigning their collateral to ShuttleOne. ShuttleOne will have a network of notaries, accountants, auditors and surveyors who will be able to assess the value of his property.

SZO

- 4.9 SZO is a utility token that can only be used on ShuttleOne's platform, to subsidize users' transactions.
- 4.10 When a transaction is conducted or a contract is executed on the Ethereum blockchain platform, a certain fee, known as 'gas', is required. Gas is priced in sub-units of the digital token Ether, known as *gwei*. Miners set the price of gas and can decline to process a transaction if it does not meet their price threshold. Gas is used to allocate resources of the Ethereum virtual machine so that decentralized applications such as smart contracts can self-execute in a secured fashion.
- 4.11 Each SZO will be priced as 2-7 *gwei* for the purpose of paying for gas fees, which will reduce the cost of network fees to run the ShuttleOne platform.²
- 4.12 A user will get SZO when they open a ShuttleOne wallet, pass any required customer onboarding processes and procedures, and complete their first top up of the ShuttleOne wallet. The number of SZO that will be issued will be priced according to the price of the Ethereum gas network at the point in time. Although SZO can also be bought from another platform, only users that open a ShuttleOne wallet and pass any required customer onboarding processes and procedures will be able to use their SZO tokens in practice.
- 4.13 At the initial stage, there will be 230 million total pre-minted tokens in ShuttleOne's smart contract, which is modelled on the initial expected number of users and partners within the ShuttleOne ecosystem. After the full issuance of 230mil SZO tokens, there is a yearly inflation of 5% new minted tokens that the contract can execute that is hardcoded into the smart contract, this cannot change. This is to reflect the demand of new wallets and users that maybe utilizing the products and services of ShuttleOne.
- 4.14 Holders of SZO may be entitled to promotional discount redemptions for goods (eg. rice) from time to time. However, these will not be guaranteed, and holders of SZO will still need to purchase these discount coupons to be entitled to goods.
- 4.15 In future, there are also plans to use the SZO token as a governance token to set rates. This may be in the form of participation in a voting process to determine the forex rates when offering the conversion of fiat currencies to DAI.

5. APPLICATION OF SECURITIES LAWS AND REGULATIONS

Whether SZO is considered to be a "capital market product" in Singapore

- 5.1 MAS has issued a Guide which clarified that offers or issues of digital tokens may be regulated by MAS if the digital tokens constitute "capital markets products" under the Securities and Futures Act ("**SFA**"). Capital markets products include any securities, units in a collective investment scheme, derivatives contracts and spot foreign exchange contracts for purposes of leveraged foreign exchange trading.
- 5.2 MAS stated that they will examine the structure and characteristics of, including the rights attached to, a digital token in determining if the digital token is a type of "capital markets product" under the SFA.

² These savings will be applicable for ShuttleOne rather than the direct user, as the gas fees are paid by ShuttleOne.

- 5.3 We set out below the relevant categories of “capital markets products” under the SFA and assess whether SZO will fall within the scope of a “capital markets product”.

Shares

- 5.4 The definition of “securities” under the SFA includes:

- shares, units in a business trust or any instrument conferring or representing a legal or beneficial ownership interest in a corporation, partnership or limited liability partnership;
- debentures; or
- any other product or class of products as may be prescribed.

- 5.5 According to the Guide, a digital token may constitute a share³ where it confers or represents an ownership interest in a corporation, represents liability of the token holder in the corporation, and represents mutual covenants with other token holders in the corporation *inter se*.

- 5.6 Our view is that SZO is unlikely to be characterised as a share, as it does not represent any legal or beneficial title in the shares of ShuttleOne, and it does not represent a right to claim dividends or return on capital.

Business trust

- 5.7 A unit in a business trust constitutes a security, where such a unit confers or represents ownership interest in the trust property of a business trust.

- 5.8 A business trust is defined under the Business Trusts Act as a trust that is established in respect of any property and that has the following characteristics:

- the purpose or effect, or purported purpose or effect, of the trust is to enable the unitholders to participate in or receive profits arising from the management of the property or management or operation of a business;
- the unitholders of the trust do not have day-to-day control over the management of the property;
- the property subject to the trust is managed as a whole by a trustee or by another person on behalf of the trustee;
- the contributions of the unitholders and the profits or income from which payments are to be made to them are pooled; and
- either:
 - the units in the trust that are issued are exclusively or primarily non-

³ Under section 2(1) of the SFA, read with section 4(1) of the Companies Act (Cap. 50), “share” means “a share in the share capital of a corporation and includes stock except where a distinction between stocks and share is expressed or implied.”.

redeemable; or

- the trust invests only in real estate and real estate-related assets.

5.9 Based on the description of SZO, no unit in a trust will be created for the purpose of enabling the unit holders to participate in or receive profits arising from the management of the property. As such, our view is that the current model of SZO would not constitute a unit in a business trust.

Debentures

5.10 The definition of a debenture includes:

- any debenture stock, bond, note and any other debt securities issued by or proposed to be issued by a corporation or any other entity, whether constituting a charge or not, on the assets of the issuer;
- any debenture stock, bond, note and any other debt securities issued by or proposed to be issued by a trustee-manager of a business trust in its capacity as trustee-manager of the business trust, or a trustee of a real estate investment trust in its capacity as trustee of the real estate investment trust, whether constituting a charge or not, on the assets of the business trust or real estate investment trust; or
- such other product or class of products as MAS may prescribe.

5.11 A digital token may constitute a debenture where it constitutes or evidences the indebtedness of the issuer of the digital token in respect of any money that is or may be lent to the issuer by a token holder.

5.12 Case Study 11 of the Guide sets out a specific scenario to stablecoins:

“Company K intends to offer digital tokens (“Token K”) to any person globally, including in Singapore, for US\$1 per Token K. Company K aims to achieve a relatively constant price for Token K by pegging its value to the US dollar. To do so, Company K will only accept payments for Tokens K in the form of electronic deposits of US dollars into its US-dollar denominated bank account. These deposits will serve as a fiat currency reserve to back the purported US\$1 value of each Token K in circulation. Holders of Tokens K will have the right to exchange Tokens K with Company K for US\$1 per Token K. Company K will not have any rights to cancel or redeem Token K from token holders. Company K may consider future tie-ups with retail shops to enable Token K to be used to pay for purchases.

Application of relevant laws administered by MAS in relation to an offer of Token K

As Company K is under an obligation to the buy-back of Token K from the holders, Token K may constitute a debenture if Token K represents Company K’s indebtedness to the holder to pay back the holder US\$1 per Token K. However, if Token K falls within the definition of “e-money” under the PS Act, MAS’ general regulatory stance is to not regulate Token K as a debenture.

5.13 Pursuant to the Securities and Futures (Prescribed Debentures) Regulations 2018, the definition of “debenture” under section 2(1) of the SFA also includes an arrangement:

(a) that is entered into on or after 8 October 2018;

(b) under which —

(i) a person (A) transfers legal title to any amount of any precious metal (called in this regulation the specified precious metal) to another person (B), for consideration given by B;

(ii) at a predetermined time or within a predetermined period after the arrangement is entered into —

(A) B is required to transfer legal title to the same amount of the specified precious metal to A, for a predetermined consideration given by A; or

(B) B may exercise an option to require A to acquire the legal title to the same amount of the specified precious metal from B for a predetermined consideration given by A, whether or not B may only exercise the option on the fulfilment of one or more conditions; and

(iii) the predetermined consideration to be given by A under —

(A) sub-paragraph (ii)(A); or

(B) sub-paragraph (ii)(B) upon B’s exercise of the option mentioned in that provision,

is greater than the value of consideration given by B under sub-paragraph (i); and

(c) that is neither entered into in the ordinary course of B’s business, nor solely incidental to that business.

5.14 As noted above, the MAS has also issued a Consultation which also considered the categorisation of stablecoins.

5.15 In order to consider whether SZO constitutes a debenture, we will first have to consider whether SZO constitutes e-money under the PS Act, pursuant to which we set out our analysis below.

E-money

5.16 E-money is defined in the PS Act as any electronically stored monetary value that –

- is denominated in any currency or pegged by its issuer to any currency;
- has been paid in advance to enable the making of payment transactions through the use of a payment account;
- is accepted by a person other than its issuer; and

- represents a claim on its issuer,

but does not include any deposit accepted in Singapore, from any person in Singapore.

- 5.17 E-money, as a digital representation of fiat currency, encompasses the monetary value of that fiat currency that it is denominated in. It similarly also takes on the monetary value of the fiat currency that it is pegged to by its issuer (i.e. it has a fixed exchange rate to a given fiat currency, e.g. one token = \$2).

Assessment – E-money or Debenture

- 5.18 Our view is that SZO neither constitutes e-money nor a debenture. SZO is not denominated or pegged to any fiat currency, being priced at 2-7 *gwei* for the purpose of paying for gas fees. SZO does not represent a claim on an issuer nor does it constitute the indebtedness of an issuer for the same reason. There is also no obligation for ShuttleOne to repurchase SZO.

CIS

- 5.19 A CIS is defined under the SFA to mean:
- An arrangement in respect of any property under which the participants do not have day-to-day control over the management of the property;
 - Under which either the property is managed as a whole by or on behalf of a manager; or where the contributions or profits are pooled; and
 - Under which the effect or purpose of the arrangement is to enable the participants to participate in or receive profits or to receive sums paid out of such profits.
- 5.20 ShuttleOne is unlikely to be regarded as operating a CIS, as ShuttleOne will not be involved in the arrangement in respect of any property, which will be managed as a whole by or on behalf of a manager, under which the effect or purpose of the arrangement is to enable the participants to participate in or receive profits or to receive sums paid out of such profits.

Derivatives and futures contracts

- 5.21 The definition of “derivatives contract” under the SFA means
- any contract or arrangement under which:
 - a party to the contract or arrangement is required to, or may be required to, discharge all or any of its obligations under the contract or arrangement at some future time; and
 - the value of the contract or arrangement is determined (whether directly or indirectly, or whether wholly or in part) by reference to, is derived from, or varies by reference to, either of the following:
 - the value or amount of one or more underlying things;

- fluctuations in the values or amounts of one or more underlying things; or
 - any contract or arrangement that is, or that belongs to a class of contracts or arrangements that is, prescribed to be a derivatives contract.
- 5.22 The definition also includes “securities-based derivatives contracts”, which includes any derivatives contract of which, the underlying thing is a share, debenture or unit in a business trust.
- 5.23 The definition of “futures contract” under the SFA means an exchange-traded derivatives contract under which —
- one party agrees to transfer title to an underlying thing, or a specified quantity of an underlying thing, to another party at a specified future time and at a specified price payable at that future time;
 - the parties will discharge their obligations under the contract by settling the difference between the value of a specified quantity of an underlying thing agreed at the time of the making of the contract and at a specified future time; or
 - the contract is an option on an exchange-traded derivatives contract.
- 5.24 Currently, a derivative is only regulated under the SFA if the “underlying thing” pertains to the following:
- a unit in a collective investment scheme;
 - a commodity;
 - a financial instrument, i.e. any currency, currency index, interest rate, interest rate instrument, interest rate index, securities, securities index, a group or groups of such financial instruments;
 - the credit of any person;
 - or an underlying thing prescribed by MAS.
- 5.25 MAS confirmed the position that payment tokens (i.e. crypto tokens) would not be defined as “underlying things” under the SFA in its Consultation Paper on Proposed Regulatory Approach for Derivatives Contracts on Payment Tokens dated 20 November 2019.
- 5.26 MAS also proposed in the same consultation that it does not regard it as necessary or appropriate at this point to scope all payment token derivatives within the regulatory scope of the SFA, as they do not pose risks to the financial system. Therefore, MAS took the view that it is not critical to regulate payment token derivatives unless they are offered by an entity that is systemically important.

SZO does not fall within the definition of a derivative contract, as there is no obligation for any party to repay a SZO holder any value in reference to any of the items falling within the definition of “underlying thing” under the SFA. SZO’s value is priced as 2-7

gwei for the purpose of paying for gas fees.

Spot foreign exchange contracts for the purposes of leveraged foreign exchange trading

- 5.27 “Spot foreign exchange contract” is defined in the Second Schedule to the SFA to mean a spot contract of which the underlying thing is a currency. A spot contract in turn is defined as *“a contract or arrangement for the sale or purchase of any underlying thing at the spot price, where it is intended for a party to the contract or arrangement to take delivery of the underlying thing immediately or within a period which must not be longer than the period determined by the market convention for delivery of the underlying thing”*.
- 5.28 “Leveraged foreign exchange trading” means entering into a spot foreign exchange contract where one counterparty provides to the other counterparty or the counterparty’s agent money, securities, property or other collateral which represents only a part of the value of the spot foreign exchange contract.
- 5.29 As we understand it:
- The SZO tokens would not constitute legal tender or any representation thereof (including electronic money);
 - The SZO tokens would not relate to any contract or arrangement of which the underlying thing is a currency; and
 - The SZO tokens would not confer any rights on holders other than a limited right of access, use and interact with the services on the Platform.
- 5.30 Given the above, we are of the view that the SZO tokens would not constitute spot foreign exchange contracts for the purposes of leveraged foreign exchange trading under the SFA.

Prospectus requirements

- 5.31 If SZO does not constitute a “capital markets product”, the prospectus requirements under the SFA will not apply to an offer of SZO.

6. **DIGITAL PAYMENT TOKENS**

- 6.1 Our view is that SZO is also not likely to fall within the scope of another category, “digital payment token”, under the PS Act, as it is not a digital representation of value that —
- is expressed as a unit;
 - is not denominated in any currency, and is not pegged by its issuer to any currency;
 - is, or is intended to be, a medium of exchange accepted by the public, or a section of the public, as payment for goods or services or for the discharge of a debt; and

- can be transferred, stored or traded electronically.
- 6.2 In this regard, we note that the MAS in Question 21 of the PS Act FAQs had indicated that *“what comprises a “section of the public” under the PS Act is a fact-sensitive determination.”* The MAS noted that a group of individuals with a subsisting relationship with the service provider, or a group of individuals selected because of rational characteristics common to them may not be regarded as a section of the public per se. This determination depends on factors such as size of the group, nature of the service offered, and the significance of the particular characteristic that is common.
- 6.3 However, a group of individuals selected with reference to the public, i.e. with a certain degree of indiscriminability, would likely be regarded as a section of the public.
- 6.4 We note that SZO is a utility token which can be used on the ShuttleOne platform only. As such it would not be a medium of exchange accepted by the public, or a section of the public, as payment for goods or services or for the discharge of a debt. As such, it is unlikely that SZO will be classified as a DPT.

ASSUMPTIONS

Please note that our analysis and view is given:

- in the absence of clear regulatory guidance; and
- subject to Singapore legislative language and MAS guidance as set in the MAS Guide to Digital Token Offerings (last updated on 26 May 2020).

Given the novel nature of the SZO utility token, our advice has been developed based on our interpretation of how existing Singapore laws will be applied for the issuance of SZO.

Accordingly, our advice necessarily focuses on certain specific aspects of Singapore law which we consider to be the most crucial issues at hand. Any other aspects of law or regulation (including law and regulation beyond Singapore law) not specifically covered in this note have not been considered. The scope of our advice is limited to the matters set out expressly in this advice, and our advice must not be read as extending, by implication or otherwise, to any other matter.

Our advice in this note is based on current rules, regulations and guidance in force in Singapore as of today's date. The laws and regulations, or judicial or administrative interpretations thereof, referred to in this advice may change at any time and from time to time, and such changes, which may be prospective or retrospective, may affect the conclusions reached in this advice. We will not be responsible to carry out any review or update this advice for any subsequent changes to any relevant laws or regulations, or judicial or administrative interpretations thereof, unless we are specifically engaged to do so. ShuttleOne should therefore continue to monitor the regulatory landscape on an on-going basis in light of any future developments.

For the purposes of our analysis, we have reviewed the information set out in the ShuttleOne Cryptoeconomics paper, "The ShuttleOne Token Model" (last revised 29 January 2020) (the "**Paper**"); and the call with Lim Hongzhuang on 28 January 2020 in relation to the function and uses of SZO.

We understand that the SZO token is still subject to further amendment and so we have provided guidance on how some of the key features of the token are likely to be characterised. However, this advice may not apply where new features of ShuttleOne are added or where current features of SZO are amended.

We have not specifically reviewed or commented on any other documentation, in providing this advice. We have also assumed the correctness of the factual matters provided to us, whether or not referred to in this advice, and have made no investigation or verification of any factual matters(s) contained herein. We assume that there are no other facts that are relevant other than those which are stated in this advice.

Our advice does not constitute an assurance, guarantee or warranty that the MAS or Singapore Courts would necessarily agree with the views stated in this advice or that any challenge would not be made or would necessarily fail. This advice is not intended to be used, and cannot be used, for the purpose of avoiding penalties that may be imposed by any applicable law.

This advice (including any enclosures and attachments) has been prepared solely for the benefit and use of ShuttleOne, and may be provided to the MAS in support of ShuttleOne's licensing application. It is not to be transmitted to, nor is it to be relied upon by, any other

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