



UNITED token

A utility token legal opinion

1. BACKGROUND

This document is prepared based on the information given to us by the **UNITED S.L.** (the “Company”) available at <https://unitedtoken.eu/>¹ (the “Platform”).

According to the information provided, the UNITED token which is the subject matter of this analysis, is based on the TRC20 protocol which is decentralised and gives United holders full control over their funds. Owning United token gives an advantage in using it in the United ecosystem or possibility just trade it in the public crypto exchanges.

Utility token can be used to pay the United crypto card fees and to be used for purchasing products and services. The card base currency is United token, which means that card cannot be used without having United token.

2. ISSUE

Is the UNITED token a utility token and not subject to securities regulation of any jurisdiction?

3. LEGAL ARGUMENT

3.1 Three Kinds of Tokens

Generally speaking, there are three kinds of tokens that can be issued to the public:

THE PROTOCOL TOKEN: The first kind of token is the classic “cryptographic currency”. To put it simply, this token is called protocol token because what makes it special is the new or different protocol it uses. It is generally being used solely as an alternative currency, wholly digital. Its underlying blockchain serves nothing more than keeping a ledger of the transactions between token holders. It is usually mined or given away for free at issuance (either by creation of an entirely new network, either via a blockchain split event, a.k.a “airdrop”, or via some commercial sites that offer the token in exchange for some commercial participation, a.k.a “faucets”). In its initial digital issuance, this type of token is rarely exchanged for any value (sold), since initially it has no underlying or practical value at all.

UTILITY TOKEN: The second kind of token is being deemed by many as a coupon or a pre-paid gift card, or a coupon. This kind of token is basically a contract for provision of goods or services, to be redeemed by the token holder, once or continuously. In contrast with the protocol tokens which do not have any assets of any kind underlying them and their value is being based purely on mass psychology. The utility token has an actual underlying contractual right. Therefore, its value is determined not only by mass psychology but also by the value of the underlying right attached to it.

SECURITY TOKEN: The third kind of token is a digital asset, the purchase of which entitled

¹ <https://unitedtoken.eu/wp-content/uploads/2022/05/United-Token-Whitepaper.pdf>



the owner with number of rights which is similar to securities such as stocks or bonds. There are three major characteristics for an instrument to be deemed as a security: Voting rights in a general assembly or pertaining to important decisions of an entity, profit sharing such as distributions, and/or a right to claim against the Company to redeem the instrument in exchange for a value. Therefore, a security token, for example, might offer voting rights in the issuing entity, or rights in the profits of the issuing entity (or both). The issuing entity might also promise to redeem the tokens' value when there will be enough capital to do so. These are but examples of rights attached to such tokens, which can be deemed by many jurisdictions throughout the planet to be as securities per se, which therefore require to be compliant with the securities laws and regulations.

3.2 Which Kind of Token is the UNITED token?

The question whether UNITED token qualifies as a utility token is not only of national², but as well as of trans-national, cross-jurisdictional interest and appeal³:

“There is currently no international agreement on how crypto-assets should be defined. Given the lack of an agreed definition of crypto-assets, this paper's characterisation of this phenomenon may not necessarily coincide with the approach taken by other authorities or in the relevant international fora. At the same time, the approach taken in this paper is not inconsistent with the EU regulator's definition of virtual currencies, which represent a broader set of assets compared to crypto-assets as defined in this paper. Within the scope of its mandate, the ECB works to facilitate a common understanding of this phenomenon so as to avoid a proliferation of definitions at a sectoral and jurisdictional level hampering international coordination efforts.”⁴

Blockchain tokens, or other crypto-assets generated on other Distributed Ledger Technologies (DLTs) having cross-border nature and characteristics have caught the attention of central banking authorities, national securities regulators and international standard-setting bodies alike⁵, as they could pose potential risks to the efficiency and inherent stability of the financial system integrity, the overall economy, occasion attendant money laundering, terrorist financing and other long-term negative implications and consequences⁶. A utility token, which the UNITED token is, is generally outside the regulatory remit or oversight function of both national securities regulators and international standard-setting bodies. This is by no means a propagation of absence of compliance and legal obligation, as they still exist an obligation and compliance requirement

² According to the Consultation Report and subsequent Final Report titled: “Guidance on Cryptoassets Feedback and Final Guidance to CP 19/3”, published July, 2019 by the Financial Conduct Authority (FCA), the United Kingdom (UK) national securities regulator bitcoin, ether and other utility tokens which are taxonomised as “exchange tokens” are “Unregulated tokens which fall outside the regulatory jurisdiction and remit of the FCA.

³ In the seminal work: “Regulation of Cryptocurrency Around the World”, published June 2018 by The Law Library of Congress, Global Legal Research Center, regulation of, and attitude toward cryptocurrency in 130 countries were examined and analysed.

⁴ p.7, European Central Bank (ECB) Occasional Paper Series No 223/May 2019.

⁵ Moved by the urgent and present need to protect the securities and financial markets against the disruptive blockchain technology blizzard and onslaught, both monetary and national securities regulators like the Swiss Financial Market Supervisory Authority ((FINMA), Switzerland, Securities and Exchange Board of India (SEBI), India, Monetary Authority of Singapore (MAS), Singapore, European Securities Market Authority (ESMA), European Union (EU), the Securities and Exchange Commissions (SECs) in the United States, Nigeria, Ghana, Canada, Philippines and a host of others, and international organisations and standard-setting bodies, agencies, and departments, such as FSB, IMF, WB (IBRD), CPMI, BCBS, BIS, DTCC, SWIFT, FATF, IOSCO, ISO, et al have on various occasions issued notices, investor warnings, guides, guidance, commenced enforcement actions, introduced regulation, or working on one, and been proactive issuing and releasing study and research papers, holding conferences, workshops, publishing consultation and final reports et al.

⁶ FATF amended Recommendation 15 October 2018 to embrace virtual asset activities and Virtual Asset Service Providers (VASPs), and thus directed 39 member countries to adopt a risk-based approach by following their extant rules and regulations to mitigate AML/KYC-CFT risks associated with virtual assets and Virtual Asset Service Providers (VASPs). The finalised FATF Recommendation 15 Interpretive Note text was adopted as part of the FATF body of standards in June, 2019.



under the Doctrine of Necessity. A security token, which is another basic token taxon subject to and regulated by national securities regulators, with oversight function from the international standard-setting bodies⁷, contrasts with the UNITED token as a utility token. The third often unpopular and virtually unnoticed token taxon hybrid token can fall partially both within and without securities regulation depending on its nature and characteristics. A hybrid token basically combines the features and functionalities of both utility token and security token⁸.

Utility token and security token differ in requisite fundamental respects, though the both applicable jurisprudence and legisprudence are embryonic and evolving on equally both national and international frontiers. Utility token is used for access to goods and services, and serves only pure utility purposes⁹, without granting company equity/share ownership, and even without granting speculative profit interest in certain cases:

“As securities law practitioners know well, the answer depends on the facts. For example, a token that represents a participation interest in a book-of-the-month club may not implicate our securities laws, and may well be an efficient way for the club’s operators to fund the future acquisition of books and facilitate the distribution of those books to token holders.”.

Except when listed on a crypto-asset exchange where the utility token holders can use the crypto-asset utility token for speculative purposes¹⁰, a utility token is what it is: a utility token, with neither speculative interest nor investment interest. Even where a utility token is utilised as a speculative profit-bearing financial tool, does it then metamorphose into a security token¹¹. Or conversely, can security token *ab initio* metamorphose into a utility token?

The UNITED token is a smart contract based on TRON network. The value of the UNITED token will be the services offered on the Platform, so it is a smart contract-based token used to offer services on the Platform and has multiple uses. Therefore, the UNITED token is definitely a Utility token by definition.

The UNITED token does not grant any voting rights in the Company. Furthermore, the Company does not grant any pecuniary profits to the token holders, nor any rights to claim against the Company to redeem the token for pecuniary value. Therefore, at least at a preliminary review, the token will not be categorized as a security token.

The same thing is confirmed in the platform’s whitepaper *“Holding and using United, will not give you any rewards as extra”*.¹²

As per preliminary review it seems that the UNITED token shall fall in the category of Utility token.

⁷ IOSCO, FATF et al., supra at note 5.

⁸ Supra at note 9.

⁹ Available at <https://www.merriam-webster.com/dictionary/utility%20token>.

¹⁰ Utility tokens, like normal, regular fiat national currencies such as the US dollar, Japanese yen, Chinese yuan, British pound et al., are used for speculative purposes, and do not ipso facto become securities (security tokens) subject to regulation by a national securities regulator, or oversight by IOSCO et al. The central banks, currency boards, and monetary authorities who should have regulatory remit over utility tokens cannot exercise such jurisdiction for the fundamental reason that they are not the issuers of these utility tokens otherwise known as “decentralised currencies”. Except of course for the various Central Bank Digital Currencies (CBDCs) projects in the works across the world, all other currency programmes like utility tokens are exclusively private currency operations outside the ambit of sovereign legal tender laws.

¹¹ National fiat currencies are used for speculation all the time on both local and international money trade and exchange markets, and this fact does not suddenly metamorphose them into securities, as they still remain the same monetary units—having store of value, unit of account, medium of exchange functions and characteristics among others.

¹² <https://unitedtoken.eu/wp-content/uploads/2022/05/United-Token-Whitepaper.pdf>



4. U.S Securities Laws

In the U.S, issuing, offering, or selling unregistered securities will be a violation of Section 5 of the Securities Act of 1933, and the issuer can face 5 years of prison. Furthermore, investors may initiate lawsuits under Section 5 and Section 12(a)(1) of the Securities Act of 1933 (or 15 Code §77e and §771(a)(1)) for damages of selling non-exempted security without registering it. Moreover, the Securities Exchange Act of 1934 gives powers in section 10(b) to federally regulate fraudulent security practices, wherein regulation 17 C.F.R. 240.10b-5 (c) gives investors the right to sue any issuer for fraud or deceit. It should be noted that similar laws apply in many other jurisdictions.

The Securities and Exchange Commission (hereinafter, the “SEC”), has issued the “Report of Investigation Pursuant to Section 21(a) of the Securities Exchange Act of 1934: The DAO” (Release No. 81207 / July 25, 2017) wherein a few fundamentals were promulgated. Firstly, SEC has stated that the existing federal securities laws are sufficient to tackle the token issuance. Secondly, and more importantly, the SEC has pointed out that not all tokens are securities, and that such classification shall be determined on a case-by-case basis.

In order to define a token as a security, the SEC has stated that “Howey Test” shall be applied (defined hereinafter), which indeed was applied by the SEC in that particular DAO project token issuance SEC investigation on which its report was written. Finally, the SEC has treated DAO, an unincorporated, non-resident, virtual organization, definitely not situated in the U.S, as an entity for which the Securities laws also apply to, and by reference applying the U.S laws to who so ever offers or sells securities to U.S persons, no matter in which jurisdiction the issuing entity is incorporated and/or located.

Securities must be registered per Section 5 of the Securities Act of 1933 as stated here in above. Of course, that instrument which is not security need not be registered. Therefore, one must first examine the definition of Security:

“(a) Definitions - When used in this subchapter, unless the context otherwise requires— The term “security” means any note, stock, treasury stock, security future, security-based swap, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral- trust certificate, pre organization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other mineral rights, any put, call, straddle, option, or privilege on any security, certificate of deposit, or group or index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency, or, in general, any interest or instrument commonly known as a “security”, or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing.” 15 U.S. Code §77b.

Similarly, the Securities Exchange Act of 1934 defines a security, in the following fashion: “The term “security” means any note, stock, treasury stock, security future, security-based swap, bond, debenture, certificate of interest or participation in any profit-sharing agreement or in any oil, gas, or other mineral royalty or lease, any collateral-trust certificate, pre organization certificate or



subscription, transferable share, investment contract, voting trust certificate, certificate of deposit for a security, any put, call, straddle, option, or privilege on any security, certificate of deposit, or group or index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency, or in general, any instrument commonly known as a "security"; or any certificate of interest or participation in, temporary or interim certificate for, receipt for, or warrant or right to subscribe to or purchase, any of the foregoing; but shall not include currency or any note, draft, bill of exchange, or banker's acceptance which has a maturity at the time of issuance of not exceeding nine months, exclusive of days of grace, or any renewal thereof the maturity of which is likewise limited." Section 3(a)(10) of the Securities Exchange Act of 1934.

The U.S Supreme Court has stated that the term "investment contract" in these two definitions is treated as being the same (SEC v. Edwards, 540 U.S. 398 (2004)).

So, we can see that the U.S term "security" includes also an "investment contract". An investment contract is an "investment of money in a common enterprise with a reasonable expectation of profits to be derived from the entrepreneurial or managerial efforts of others."(see SEC v.Edwards, 540 U.S.389, 393 (2004); SEC v. W.J.Howey Co., 328 U.S. 293, 301 (1946); see also the Forman case, at 852-853) (in this work, the "Howey Test").

Therefore, according to the Howey Test, four prongs are to be met in order to declare an investment contract as a security:

- a) Investment of Money;
- b) [in a] A Common Enterprise;
- c) [with a reasonable] Expectation of Profits; and
- d) [to be derived from the entrepreneurial or managerial] Effort of Others;

Prong 1: Investment of Money

The UNITED tokens were issued in exchange of TRON to do a liquidity raise. Therefore, this prong is met in essence as there was exchange for TRON with the UNITED token.

Prong 2: A Common Enterprise

The UNITED token does not grant any voting rights in the Company. Furthermore, the Company does not grant any pecuniary profits to the token holders, nor any rights to claim against the Company to redeem the token for pecuniary value. UNITED token does not meet horizontal commonality test requirements, the token holders' pecuniary rights are not being accumulated, they are discretionary. Therefore, it only seems reasonable that this prong is not met.

Prong 3: Expectation of Profits

This prong does not merely require the customer who buys the token to expect profit, because it seems unreasonable that someone will purchase a service or a good without taking into account the probability that the purchased will increase in value. The expectation of profits from a purchase of any kind of valuable is almost always present. But even so, buyers of UNITED are primarily interested in receiving the service of the platform (payment by debit cards), and in receiving the service at a better price than in fiat money. The personal consumption is a vital part of considering whether this prong is met or not, wherein it should be examined if the primary motivation of purchasing the token is to profit upon resale, or to use the underlying rights of the token. There



are several court cases where this differentiation was stipulated, for example see the Forman Case. Per Forman, it “is an investment where one parts with his money in the hope of receiving profits from the efforts of others, and not where he purchases a commodity for personal consumption or living quarters for personal use”.

The people who will buy the tokens over the exchanges will primarily be motivated by functionalities it provides and also when the milestones are met it can be put to different uses in various scenarios. So, the least possible probability would be that the person is purchasing the tokens for purpose of profit upon resale as noted above it is a Utility token and no money was ever raised from general public it would be unjust to reach a conclusion that the token holders are holding it for profit upon resale. Nevertheless, since the token provides a real consideration and functionality, it only seems reasonable that purchasers will use the token's rights for consumption and participation at the Platform.

Prong 4: From the Efforts of Others

This prong is based on the fulfillment of the requirement of the previous prong - expectation of profits. Assuming that prong 3 is met (where as to our opinion UNITED token does not always meet its requirement for the above-mentioned arguments), this prong “from the efforts of others” is examining the source of the profits - “whether the efforts made by those other than the investor are the undeniably significant ones, those essential managerial efforts which affect the failure or success of the enterprise.” (the Forman Case; SEC v. Glenn W. Turner Enters., 474 F.2d 476, sec. 28 (Feb. 1, 1973)). Therefore, this prong cannot, on its own, qualify any instrument (or token) as a security.

Nevertheless, this profit will not be generated from “the effort of others”. In reality, every valuable can be expected to appreciate due to secondary market factors which are not related to any continuing effort of the issuer. For example, there could be a purchase of a real estate, or gems that could appreciate later, and be sold in a profit. The purchase agreement of a real estate cannot be considered as an investment contract solely due to the fact that the real estate will almost certainly appreciate. Therefore, mere appreciation in the second market cannot be perceived as made by “the effort of others”. To support this argument, it has been held by number of cases that mere secondary market appreciation cannot at all be construed or perceived as derived from “the effort of others”, e.g.: “The mere presence of a speculative motive on the part of the purchaser or seller does not evidence the existence of an “investment contract” within the meaning of the securities acts. In a sense anyone who buys or sells a horse or an automobile hopes to realize a profitable “investment.” But the expected return is not contingent upon the continuing efforts of another.” *Sinva v. Merrill Lynch*, 253 F. Supp. 359, 367 (S.D.N.Y.1966) Therefore, the fact that a person might purchase the token solely in order to sell it in the secondary market for profit, does not constitute on its own the prong 4, the “effort of others”.

Interim conclusion - the Howey Test. By concluding all the variants on the UNITED token, we can safely assume that the UNITED token will not be deemed as a security per the Howey Test. It takes all four prongs to be fulfilled in order to see an instrument as a security. The “investment of money” is not met, the “common enterprise” with the horizontal commonality test might not be. Furthermore, the “expectations of profit” prong will not be fulfilled as far as the personal consumers are concerned but will definitely be fulfilled for the purchasers with the intent to sell the tokens in the secondary market for profits.



And eventually, for the "effort of others" component, the schools are divided between the technical approach and the material approach, wherein per the technical approach the "efforts of others" component is not met because the UNITED token network has already started and the profits of the investors are dependent upon the efforts of the participants, whilst the material approach, which we support, claims that that the "efforts of others" component is not fulfilled because an instrument does not utterly change its legal status just because the underlying project has not been completed yet. So, the overall risk score is quite minimal and we are positive that UNITED token shall not be considered as 'Security'.

Conclusion. Based on that definition and our reading of relevant case law, as well as on our understanding of the facts and our review of the materials provided to us as regards the structure of the UNITED token, we conclude that the UNITED token should not be deemed as a security by federal securities laws of USA.

5. Further Allowed Jurisdictions

Many jurisdictions share a very similar view of how to define a security. A security is generally being defined as a collection of rights relating to a company. There is a range of types of securities, but they mainly divide into equity securities (shares) or debt securities (bonds, ETNs, ETFs).

In the case of the UNITED token, we can clearly see that it holds no "share" right in the Company such as voting, profits, liquidation rights. Therefore, as far as we're aware of, offering the UNITED token to the rest of the jurisdictions will not deem as local infringement of securities laws. Other major jurisdictions and their securities law analysis is presented below:

5.1 European union.

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; those are:

- i. Transferable securities;
- ii. Money-market instruments;
- iii. Units in collective investment undertakings;
- iv. 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;
- v. 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;
- vi. 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;
- vii. 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;

viii. Derivative instruments for the transfer of credit risk;

ix. Financial contracts for differences;

x. 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;

xi. 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 UNITED Token can be considered one of these.

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 to be assigned to another person), negotiability (meaning that the units can be transferrable with ease), and standardization (meaning that the units are sufficiently standardized for the purposes of the ease of search and purchase). In case of UNITED token (as with practically any other kind of token) all these criteria are fulfilled: tokens can be transferred between addresses and it can be done sufficiently easy, and all UNITED tokens are the same - which is a considerable argument for their standardization. The fourth criterion is a substantive one. MIFID II provides a non-exhaustive list of instruments that are typically considered securities; it is likely that this list shall be used as a reference in determining whether a new product can be considered a transferrable security. Therefore, to be considered a security, UNITED token must be at least comparable to the examples provided in MIFID II. The examples provided are the 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. UNITED tokens are in themselves neither shares nor bonds; their holders are not entitled neither to the fixed income like the bonds do, nor do the UNITED



token grant their holders the equity stake in any corporation or any other rights, typically associated with shares or their equivalent, such as the right to receive a share in the revenue of the respective business or the right to vote or otherwise define the course of business of the issuer.

It is unlikely for UNITED token to be considered transferable securities under MIFID II.

Money-market instruments

Money-market instruments are defined in Article 4(1)(17) as classes of instruments which are normally dealt in on the money market, such as treasury bills, certificates of deposit and commercial papers and excluding instruments of payment. Since UNITED token bears no similarities to these instruments and is not intended to be dealt on the money market, it is unlikely a money-market instrument.

Derivative instruments

A derivative is a type of financial instrument whose value is based on the change in value of an underlying asset or a basket of assets, of which the exact mechanics (option, future, swap, etc.) and the underlying assets (securities, currencies, commodities, credit risk, etc.) vary. Article 4(1) of CIR mandates the EMIR report to specify a derivative on the basis of the contract type and the asset class; according to Article 4(2) of CIR the derivative shall be specified in Field 1 of Table 2 of the Annex as one of the contract types:

- a) financial contract for difference;
- c) forward;
- d) future;
- e) option;
- f) spread bet;
- g) swap;
- h) swaption;

These types of derivative contracts are defined in the Article 1(8) - (12) of Annex III to RTS 2: Future means a contract to buy or sell a commodity or financial instrument in a designated future date at a price agreed upon at the initiation of the contract by the buyer and seller. Every futures contract has standard terms that dictate the minimum quantity and quality that can be bought or sold, the smallest amount by which the price may change, delivery procedures, maturity date and other characteristics related to the contract. Option means a contract that gives the owner the right, but not the obligation, to buy (call) or sell (put) a specific financial instrument or commodity at a predetermined price, strike or exercise price, at or up to a certain future date or exercise date Swap means a contract in which two parties agree to exchange cash flows in one financial those of another financial instrument at a certain future date. Forward or forward agreement means a private agreement between two parties to buy or sell a commodity or financial instrument at a designated future date at a price agreed upon at the initiation of the contract by the buyer and seller.



Another type of derivative instrument is a financial contract for difference, which is specified in ACP as a derivative product that gives the holder an economic ensure, which can be long or short, to the difference between the price of an underlying asset at the start of the contract and the price when the contract is closed. Neither UNITED token holder nor the Company or any third party are subject to obligations similar to specified for the typical derivative contracts, and UNITED token holders are not entitled to demand any commodity or financial instrument to be sold to them; neither are they entitled to demand an exchange of cash flows in any financial instruments or a cash settlement from any third party. The value of UNITED token is not based on or relate to securities, commodities, currencies, interest rates or yields, emission allowances or other derivatives instruments, financial indices or financial measures, or any other assets, rights, obligations, indices and measures and is only determined based on the current market demand for it, and UNITED token is not used to transfer credit risk. Therefore, UNITED tokens are unlikely to be considered derivative financial instrument as specified in Section (C) (4) - (10) of MIFID II.

Emission allowances

According to the Article 3(a) of the Emissions Directive, allowance means an allowance to emit one ton of carbon dioxide equivalent during a specified period, which shall be valid only for the purposes of meeting the requirements of this Directive and shall be transferable in accordance with the provisions of this Directive. Since none of the activities carried out by the Company are connected to the emissions of the carbon dioxide, and UNITED token holders do not grant the rights to emit carbon dioxide or its equivalents, UNITED token is unlikely to be qualified as an emission allowance.

Prospectus Requirements

The PD requires publication of a prospectus before transferable securities are offered to the public or traded on a regulated market. Since UNITED token tokens are unlikely to be considered transferable securities, requirements of the PD do not apply to the issuance and listing of UNITED token.

Alternative Investment Funds

The AIFMD lays down the rules for the authorization, ongoing operation and transparency of the managers of alternative investment funds (AIFMs) which manage and/or market alternative investment funds (AIFs) in the Union. Therefore, it is necessary to assess whether the Company may be considered an AIFM. The Article 2(1)(c) defines the scope of AIMFD regulations as applicable to non-EU AIFMs which market one or more AIFs in the Union irrespective of whether such AIFs are EU AIFs or non-EU AIFs. According to Article 4(1) of the AIMFD, AIF means a collective investment undertaking, including investment compartments thereof, which raises capital from a number of investors, with a view to investing it in accordance with a defined investment policy for the benefit of those investors, and does not require authorization pursuant to Article 5 of UCITS Directive. AIFM means legal persons whose regular business is managing one or more AIF. Since the Company is not raising capital by selling UNITED token with a view to invest it for the benefit of UNITED token holders, it cannot be considered neither AIF, nor AIFM. Therefore, the regulations of the AIFMD do not apply to the issuance and listing of UNITED token tokens.

Electronic money



Another question that must be answered is whether the special regime for electronic money as covered by the EMD can be applied to UNITED tokens. According to the Article 2(2) of the EMD, 'electronic money' means electronically, including magnetically, stored monetary value as represented by a claim on the issuer which is issued on receipt of funds for the purpose of making payment transactions as defined in point 5 of Article 4 of Directive 2007/64/EC, and which is accepted by a natural or legal person other than the electronic money issuer. It seems that UNITED tokens do not fit the definition of electronic money. Furthermore, UNITED tokens are not represented by a claim on the Company, since they are non-redeemable, and the Company is not obliged to make any payments in respect to the holders of UNITED tokens. Furthermore, as provided by the Article 1(4) of the EMD, even if the instrument can be considered electronic money, the EMD provisions do not apply if the instrument is exempt under the Article 3(k) of the PSD I. While the PSD I is repealed with the entrance of PSD II in force, according to the Article 114 of PSD II any reference to PSD I shall be construed as a reference to PSD II read in accordance with the correlation table in Annex II to PSD II. According to the Annex II, Article 3 of the PSD I correlate to the Article (3) of the PSD II. As demonstrated in the next section, if the activities of the Company could be considered payment services under PSD II, it is likely that they will be exempted under provisions of the Article 3(k) of the PSD II; such exemption would correlate with the exemption under Article 3(k) of PSD I and as such qualify to exempt the Company from the provisions of the EMD.

Payment Services

Another potentially applicable regulations are those imposed by the PSD II in regard to the payment services. Since transfer of UNITED token can be used as a consideration under the agreements entered into via the Platform, it is necessary to assess whether such transfer could be considered a payment transaction, and whether the Company is rendering payment services as defined by the PSD II. As stated in Article 4(3) of the PSD II, the payment service means any business activity set out in Annex I of the Directive. Those are:

1. Services enabling cash to be placed on a payment account as well as all the operations required for operating a payment account.
2. Services enabling cash withdrawals from a payment account as well as all the operations required for operating a payment account.
3. Execution of payment transactions, including transfers of funds on a payment account with the user's payment service provider or with another payment service provider:
 - a) execution of direct debits, including one-off direct debits;
 - b) execution of payment transactions through a payment card or a similar device;
 - c) execution of credit transfers, including standing orders.
4. Execution of payment transactions where the funds are covered by a credit line for a payment service user:
 - a) execution of direct debits, including one-off direct debits;
 - b) execution of payment transactions through a payment card or a similar device;
 - c) execution of credit transfers, including standing orders.



5. Issuing of payment instruments and/or acquiring of payment transactions.
6. Money remittance.
7. Payment initiation services.
8. Account information services.

It is therefore necessary to assess whether the activities of the Company can be considered as each of the following. It is possible to group together the services mentioned in the Annex I (1) and Annex I (2) as operations with the payment accounts, as well as to group services mentioned in the Annex I (3) and Annex I (4) as operations regarding payment transactions. Operations with payment accounts Payment account is defined in Article 4(12) of PSD II as an account held in the name of one or more payment service users which is used for the execution of payment transactions. Payment transaction in accordance to Article 4(5) means an act, initiated by the payer or on his behalf or by the payee, of placing, transferring or withdrawing funds, irrespective of any underlying obligations between the payer and the payee. Funds are defined in Article 4(25) and mean banknotes and coins, scriptural money or electronic money as defined in Article 2(2) of EMD. As demonstrated in the previous section, UNITED tokens do not qualify as electronic money under the regulations of EMD; nor can they be considered banknotes, coins or scriptural money. This means UNITED tokens are not funds under the PSD II, and therefore transactions of UNITED tokens with them would not constitute a payment transaction under PSD II. Since operations with the private wallets of the clients do not constitute operations with payment accounts, and Annex I (1-2) services are not applicable.

Payment Transactions

Since operations with UNITED token do not constitute payment transactions, Annex I (3-4) are not applicable to the services rendered by the Company. Issuing and/or acquiring of payment instruments According to the definitions in Article 4(13-14), payment instrument means a personalized device(s) and/or set of procedures agreed between the payment service user and the payment service provider, used in order to initiate a payment order, which is an instruction by a payer or payee to its payment service provider requesting the execution of a payment transaction. While operations with UNITED tokens do not constitute payment transactions, the Company cannot be considered issuing payment instruments; neither it can be considered acquiring payment transactions.

Money remittance

Money remittance is specified in Article 4(22) as a payment service where funds are received from a payer, without any payment accounts being created in the name of the payer or the payee, for the sole purpose of transferring a corresponding amount to a payee or to another payment service provider acting on behalf of the payee, and/or where such funds are received on behalf of and made available to the payee. The Company does not render such services; it is only possible to purchase UNITED tokens in one's own name, and the proceeds received are not transferred to another person.

Payment initiation services

According to Article 4(15), payment initiation service means a service to initiate a payment order at the request of the payment service user with respect to a payment account held at another



payment service provider. The Company does not render such services and does not have access to user's payment accounts at payment service providers.

Account information services

Account information service is specified in Article 4(16) as an online service to provide consolidated information on one or more payment accounts held by the payment service user with either another payment service provider or with more than one payment service provider. The Company does not provide such services.

European Union findings

It has been demonstrated that UNITED token is unlikely to be considered a financial instrument under the European regulations, and so it is exempt from the regulations of MIFID II, PD, AIFMD and UCITS Directive. Furthermore, it is unlikely that regulations on electronic money or payment services imposed by EMD and PSD II could be applied to the business activities of the Company in regard to the issuance or listing of the UNITED tokens.

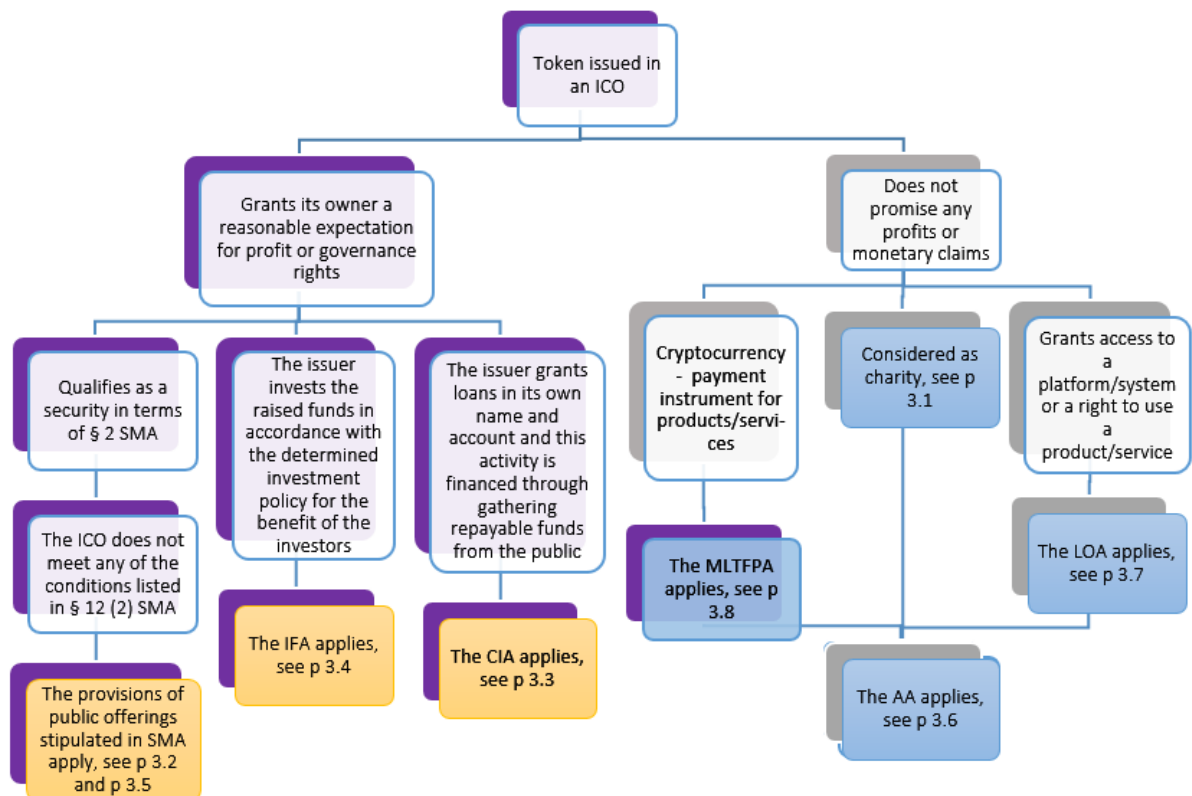
5.2 Estonian Jurisdiction

According to the legislation of the Republic of Estonia tokens are classified as securities, if, for example, they (being proprietary right, obligation or contract) can be transferred on the basis of an at least unilateral expression of will or if they provide voting or decision making rights in the issuer or give the investor a certain return expectation regarding their investment (e.g. a right to a part of the issuer's profit, regular cash flows, or any other promise about future profit), regardless of whether the funds raised are repayable by maturity date or no maturity date exists (e.g. a perpetual bond).

In case the tokens are intended to be exclusively used as a means of payment for acquiring goods or services or as a means of money or value transfer, they shall be considered as payment tokens. Such tokens do not give rise to any claims on their issuer. The definition of payment tokens corresponds to that of a virtual currency in the provision § 3 point 9 of the Money Laundering and Terrorist Financing Prevention Act (MLTFPA)¹³, being a value represented in the digital form, which is digitally transferable, preservable or tradable and which natural persons or legal persons accept as a payment instrument, but that is not the legal tender of any country or funds for the purposes of Article 4(25) of Directive (EU) 2015/2366 of the European Parliament and of the Council on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, pp. 35–127) or a payment transaction for the purposes of points (k) and (l) of Article 3 of the same Directive.

The issuers of payment tokens, where the payments are accepted also in fiat money, should follow the at least the due diligence measures provided in the MLTFPA.

¹³ <https://www.riigiteataja.ee/en/eli/ee/Riigikogu/act/521122017004/consolide>



Source: <https://www.fi.ee/index.php?id=22715>

The following scheme is used for UNITED token: Token issued in an ICO – does not promise any profits or monetary claims – cryptocurrency payment instrument for products/services – the MLTFPA applies – the Advertising Act¹⁴ applies (AA).

It is important to carefully consider the use of terms in the advertisement and the general requirements for advertising stipulated in the Chapter 2 of the AA. The advertising must provide a clear and true presentation of the product or service to the persons targeted. In particular, advertising must not be misleading concerning the characteristics of the offered product or service. For example, advertising something as an investment service could be unlawful without the required authorisation (as stated in the provisions § 3 (4) 11) and 16); § 4 (1) and § 29 (1) and (3) of the AA). A utility token must not be advertised as an investment or an investment object.

CONCLUSION

The reasoning and conclusion from the facts and circumstances of the UNITED utility token falls outside the general rubric for a security token in any jurisdiction where the utility token is bought by a citizen, or a subject-matter of the jurisdiction. The UNITED utility token is not a security token for the reason that it does not grant any right whatsoever in shares of the Company. Therefore, the UNITED utility token is an “unregulated token” under municipal laws, and non-descript under international law and

¹⁴ <https://www.riigiteataja.ee/en/eli/ee/Riigikogu/act/504042018001/consolide>



convention at the moment, but subject to Know Your Customer (KYC), Anti-Money Laundering (AML), and Counter-Financing of Terrorism (CFT) measures based on the Financial Action Task Force (FATF) Recommendation 15, due diligence and compliance.

DISCLAIMER

Liability is hereby generally disclaimed, as this global utility token legal opinion only serves for legal informational purposes, and no more. No third party can bring a claim against the author of this legal opinion.



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