Legal Kornet

**LEGAL OPINION**

**THE PROJECT:** [redacted]

Legal Kornet Law Firm LLC

April 15, 2019

## 1. [redacted]

There are many types of blockchain tokens, each with its own characteristics. For example, one type of blockchain tokens may be used to support functioning of an application designed for it. That is loteu. In contrast with other types of tokens, which do not have any assets of any kind underlying them and which value is based purely on mass psychology, the loteu has an underlying contractual right. And in this sense its value is determined not only by mass psychology but also by the value of the underlying right attached to it.

Another type of tokens may be utilized as a virtual (digital) currency (protocol token) that serves as a certain medium of exchange not only within the specific blockchain platform but also beyond that. To put it simply, this token is called protocol token because what makes it special is the new or different protocol it uses. Its underlying blockchain serves nothing more than keeping a ledger of transactions between token holders.

Finally, security token. That is a digital asset, the purchase of which vests the owner with a number of rights which are similar to securities such as bonds or stocks.

An inherent feature of any token is to be tradable on a "secondary market" of tokens on a cryptocurrency exchange market. That is to say, a token is free for sale and once it has been issued, a token is subject to market speculations according to the rules of supply and demand.

However, there are a number of complicated legal issues concerning tokens since some of them may fall under the definition of security instrument and, therefore, be subject to US federal or state securities laws. This means that sale of such tokens may be unlawful for US residents.

In many jurisdictions, there may also be issues related to anti-money laundering laws and general consumer protection laws as well as to specific laws depending on the token type.

Based on our analysis of the current case law, regulations of the competent governmental institutions in different parts of the world, including such agencies as SEC (Security and Exchange Commission) or CFTC (Commodity Futures Trading Commission), MAS (Monetary Authority of Singapore), ECB (European Central Bank) as well as based on various facts and materials derived from a plethora of ICOs conducted in different parts of the world, we come to the conclusion that the appropriately designed token may not entail risks of being recognized as an investment instrument.

Nevertheless, it has to be clearly understood that we cannot provide a thorough review aimed at checking the compliance with the regulatory regime of each jurisdiction. Hence, in this legal opinion we will focus on the United States security law.

This memorandum is devoted to examination of a token (hereinafter – "**Token**" or "**LOTEX TOKEN**") posted on the Platform's website (hereinafter also "**Founders**" or "**Owners**") to develop its product (hereinafter "**Platform**" or "**Ecosystem**", or "**LOTEX Platform**", "**LOTEX PROJECT**", "**LOTEX**") with regard to its risks of being considered as an investment instrument.

In Section I, we introduce to you a general concept of the Project and blockchain tokens. Section II describes a security law framework for blockchain tokens in light of SEC Report. In Section III, we analyze whether Token meets the Howey Test, and then, in Section IV, we sum up whether Tokens fall under the definition of security instruments or not.

It should be noticed that the legal analysis herein may be updated in the future as the law in this area continues to develop. Furthermore, the below analysis is strictly theoretical, as no cases, that we are aware of and that are relevant to the subject matter, have been tested yet in courts as of today.

## II Security Law Framework for Blockchain Tokens in Light of SEC Report

In re SEC v. C.M. Joiner Leasing Corp., 320 U.S. 344, 351 (1943) it is established that

*"The reach of the Securities Act does not stop with the obvious and commonplace. Novel, uncommon, or irregular devices, whatever they appear to be, are also reached if it be proved as a matter of fact that they were widely offered or dealt in under terms or courses of dealing which established their character in commerce as "investment contracts", or any interest or instrument commonly known as security."*

The same was held in Reves v. Ernst and Young, 494 U.S. 56, 61 (1990):

*"Congress' purpose in enacting the securities laws was to regulate investments, in whatever form they are made and whatever name they are called"*

The U.S. Securities and Exchange Commission adheres to this position and declares that any new forms of investments via smart contracts or blockchain technology fall under the purview of US federal securities laws and on July 25, 2017, it issued a Section 21(a) investigative report, Release No. 81207 ("the Report") on investigation of DAO case. Among others, the Report distinguishes projects where tokens represent securities as described above.

Hence, in this analysis we shall investigate and provide our legal opinion as to whether LOTEX Platform is the type of crowd funding that triggers prospectus requirements and any of security laws provisions of the United States.

## III. Security Law Analysis for the LOTEX PROJECT and Its Token LOTEX

*A* Understanding the model of Project's work will help us to understand the nature of LOTEX Token. Therefore, we start with the fact-based part of the analysis of this Legal Opinion with an attempt to delve into the matter of business, which is not possible without comprehending the

difficulties the system users are trying to overcome, and to reveal solutions the LOTTO PROJECT itself suggests in the WP.

For the purpose of this analysis, we have examined the White Paper (hereinafter the "**WP**") of the Project, studied and scrutinized marketing content available on Project Website and revealed the following.

In the White Paper, the founders say that because of the high degree of centralization, the organizers of the lottery possess significant powers subject to abusive activity due to the lack of transparency in the lotteries.

*«Global drivers such as increased internet penetration, mobile and PC ownership, and the increased adoption of cryptocurrencies point towards greater demand for all-digital lotteries that overcomes current customer issues such as lack of trust and requirements for personal information».*

However, Founders mentioned in the White Paper to discover the way to address at least some of the issues using blockchain technology. That is, the Platform called LOTTO PLATFORM that makes it possible to facilitate the growth of game industry on a blockchain «in new channels and with the use of LOTTO PLATFORM.

*«LOTTO is a fully automated lottery platform that uses blockchain and smart contracts to create a fully transparent lottery, where your chances are incomparably higher compared to conventional lotteries».*

Due to blockchain technology and use of cryptocurrencies for lottery users, LOTTO is 100% transparent and all transactions as well as prize splits can be viewed at all times, instead of traditional lotteries, as there is the central authority.

*«The goal of the founders of the project is to provide a lottery platform (MVP 31/3/2018), which offers the best user experience to which the target client, improved using blockchain technology, is used. LOTTO wants to get 0.1% of this market for 1 year.»*

*«This goal will be achieved through a marketing strategy involving the participation of global and local cryptoindustrial ambassadors, as well as world-famous athletes».*

What is more, LOTTO PLATFORM has discovered the way for monetization of its Platform and creation of its own ecosystem in the form of facilitated marketplace.

*«Users enter the lottery by purchasing single tickets for the LOTTO weekly lottery using the Ethereum cryptocurrency, or through a third party merchant. Each Ethereum wallet address that has purchased entry is then registered as a participant in the LOTTO weekly lottery.*

*Later, LOTTO will add a daily lottery governed by the same rules.*

*The weekly LOTTO lottery will be executed through a smart contract that will utilize a certified random number generator (RNG).*

Payment of lottery tickets is carried out using Ethereum cryptocurrency.

While we have to move forward, it is necessary to mention that we prepared and introduced here only the core features of the Project that will help us to analyze the LOTTO TOKEN for Howey test.

At this point, we start our evaluation with the major participants of the Platform to understand relations between LOTTO TOKEN holders and Founders on the one side, and between LOTTO TOKEN holders themselves (participants of the Platform) on the other side. Taking this into account, it is fair to declare that relations between LOTTO TOKEN holders above will eventually determine relations between LOTTO TOKEN holders and Project Founders and, as a result, these relations will lead to the final conclusion of this Legal Opinion.

There are several core participants in the Ecosystem. And the LOTTO PLATFORM is an independent player in the Ecosystem of LOTTO that has its own function apart from development and technical support of the Platform. As it follows from the White Paper, the Platform ensures availability of LOTTO TOKEN and services and has its own monetization via Token commission and advertisement.

It becomes clear, that Founders act on the Platform marketplace as independent players seeking their own benefits. And in this regard, the form of relations between the members of the Platform and Founders reminds legal relations between a licensor and licensee.

Another conclusion here is that all Platform members are deeply involved in the development of the Platform since the more Platform users make operations on the Platform, the more complex and flexible the LOTTO Platform becomes.

There is no evidence revealed that the Platform has already been developed. However, it can be inferred from the White Paper that the System (MVP) functioning will March 2019.

Obviously, no legal opinion on Howey Test may obviate the token analysis and we will scrutinize it not only in this part hereof.

The primary function of LOTTO TOKEN in the Ecosystem is to provide the Project's members with the access to the system.

*«Users enter the lottery by purchasing single tickets for the LOTTO weekly lottery using the Ethereum cryptocurrency or through a third party merchant. Each Ethereum wallet address that has purchased entry is then registered as a participant in the LOTTO weekly lottery. At a later date, LOTTO will add a daily lottery governed by the same rules.»*

Another use of a token is provision of a discount for payment services with the Platform. That is well-known use of a token that is accepted in most jurisdictions as an internal medium of exchange that has value only within the particular Platform.

There are two types of Tokens in the systems LOTTX and LOTTO, where the first one is proclaimed as a security token which is meant to be sold only in private funding round (the ICO is accredited contributors from venture capital funds). LOTTX is not the subject of current analysis.

*«There will not be a public sale. This token grants owners an opportunity to prot from being part of a lottery without being attendees in amount 20% of each prize total value. The LOSEX are locked for 13 months and during this time it is not possible to buy or sell».*

After selling these tokens, the token will be listed on exchanges that are security tokens.

Thorough investigation of the WP has not determined that the Founders offer any distribution of dividends to prospective LOSEU TOKEN holders derived from the use of the Platform or any other form of investments return. Marketing materials of the Project do not contain any aggressive promotion of the LOSEU TOKEN as an investment instrument to speculate on the exchange market.

The Founders also supply the WP's reader with several disclaimers and explanations of its legal structure:

*«LOSEU is working with its legal partners so that it can comply with regulations from around the world and avoid any possible law breaking. LOSEU has had several consultations with authorities and commission and it can receive required documents in order to achieve its goal. That is, why LOSEU has established a company in Curacao that applied for an online gambling licence with a subsidiary in Cyprus.*

*Regarding this structure, LOSEU can receive a global online gambling licence. This excludes the USA, as it is prohibited by the federal law. For this purpose LOSEU and all mechanisms have to be clearly specified, protect and protected against any possible fraud, hack, or any other harmful act that could cause any kind of problems for its users or LOSEU.*

*LOSEU promises to behave transparently. Thanks to blockchain, all transactions are auditable at all times. LOSEU will hire an external audit company that will take care of all audit duties related to the object of its business. For all traditional payment services (VISA, MasterCard, Qiwi, PayPal, WebMoney, mobile message payments etc.) for users from EU LOSEU will use its subsidiary in Cyprus. LOSEU will exclude all U.S. located contributors from its funding plan.»*

*B. Howey Test and Its Adoption by the Federal Courts*

In accordance with Section 2(a)(1) of the Securities Act, security is an:

*"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 ... investment contract ... 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."*

Exchange and Securities Acts tend to control issuing of investment instruments and to notify particular interests attached to them. However, Security Law promotes a priority of the substance over the form. Therefore, if the Security and Exchange Commission reveals

any type of cooperation promising any future profits merely out of signing particular contract, it may investigate the case and declare this contract a security instrument. Under such circumstances, promoters of such instrument shall disclose particular information and submit it to SEC.

The Supreme Court case for determining whether an instrument meets the definition of security is SEC v. Howey, 328 U.S. 293 (1946). In that case, a promoter offered to purchase certain services (cultivation of land) for the fixed price and cost of services. It is important to note that further the promoter was delegated to distribute the net profits derived from the sale of fertile land among the holders of land plots during the harvesting period. There were only 42 investors interested in purchasing the land.

Analyzing the fact pattern, the Court construes the *"investment contract"* term within the definition of security and notes that it has been used to classify those instruments that are of a *"more variable character"* that may be considered as a form of *"contract, transaction, or scheme whereby an investor lays out money in a way intended to secure income or profit from its employment."* 11 Howey, 328 U.S. at 298; Goldkis v. Garofolo, 678 F.2d 1139, 1144 (2d Cir. 1982).

More specifically, the court comes to the conclusion that the contract between the promoter and investor constitutes an investment contract. The court explains the definition of the security transaction as follows:

*"a contract, transaction or scheme whereby a person invests his money in a common enterprise and is led to expect profits solely from the efforts of the promoter or a third party."*

Moreover, the court said that this definition was *"crystallized"* in the state courts cases long before adoption of the federal act. The Supreme Court continues that the term

*"had been broadly construed by state courts so as to afford the investing public a full measure of protection. Form was disregarded for substance and emphasis was placed on economic reality."*

The Court stated that its definition of investment contracts

*"embodies a flexible rather than a static principle, one that is capable of adaptation to meet the countless and variable schemes devised by those who seek the use of the money of others on the promise of profits."*

Eventually, to determine that this is an investment contract, the court has to establish that the following applies four: (i) *investment of money*; (ii) *common enterprise*; (iii) *expectation of profits*; (iv) *solely from the efforts of others* (e.g., from a promoter or third party).

With regard to the first prong *"investment of money"*, there is no basis for disagreement. The only issue that may arise here is whether cryptocurrency may constitute viable consideration interest in lieu of the obtained interests attached to the token. This issue is addressed by the Supreme Court itself holding that the first prong requires only

*"tangible and definable consideration in return for an interest that had substantially the characteristics of a security."*

However, the Supreme Court fails to specify the definition of a common enterprise. Federal circuits developed two different concepts to analyze underlying contractual relationships of the parties. The first doctrine is "*horizontal commonality*" and the second is "*vertical commonality*".

Horizontal commonality is found when a) investors' contributions are pooled together (and according to some courts, there is a pro-rata sharing of profits) b) the fortune of each investor depends on the success of the overall enterprise.

In contrast, vertical commonality presupposes that common enterprise may be found where the investors' fortune is dependent on the expertise of the promoter or third parties. In case of narrow vertical commonality, investors' profits shall be tied to the profits of promoters.

It is not necessary that the funds of investors are pooled, what must be shown is that the fortunes of the investors are linked with those of the promoters, thereby establishing the requisite element of vertical commonality. Thus, a common enterprise exists if a direct correlation has been established between success or failure of the promoter's efforts and success or failure of the investment.

According to this view, the test is satisfied if the promoter and the investor are both exposed to risk and the profits and losses of investor and promoter are correlated.

In broad vertical commonality, investors' success depends on the efficacy of the managers or third parties. Both the Fifth Circuit and the Eleventh Circuit follow this view. If the investor relies on the promoter's expertise, then the transaction or scheme represents a common enterprise and satisfies the second prong of the Howey test.

As it was mentioned above, the circuits now disagree over the term "*common enterprise*".

The third prong is an "*expectation of profit derived from the entrepreneurial or managerial efforts of others*". Analyzing this prong, courts consider whether potential investors 1) expect to receive profits from their own efforts (use of rights or services obtained from promoters) or 2) from the efforts (managerial expertise) of the founders.

Even though in re Howey, the Court used the phrase "solely" from the efforts of others, the lower courts relaxed this prong, adopting concepts of "*undeniably significant*" or "*predominantly*" (Rivanna Trawlers Unlimited v. Thompson Trawlers, Inc., 840 F.2d 236, 240 n.4 (4th Cir. 1988); SEC v. Life Partners, Inc., 87 F.3d 536, 545 (D.C. Cir. 1996); SEC v. Int'l Loan Network, Inc., 968 F.2d 1304, 1308 (D.C. Cir. 1992); SEC v. Koscot Interplanetary, Inc., 497 F.2d 473, 483 (5th Cir. 1974) (quoting SEC v. Glenn W. Turner Enters., Inc., 474 F.2d 476, 482 (9th Cir. 1973)).

In United Housing Foundation, Inc. v. Forman, the Supreme Court stated, "*The touchstone is the presence of an investment in a common venture premised on a reasonable expectation of profits to be derived from the entrepreneurial or managerial efforts of others.*" 421 U.S. 837, 852 (1975).

Since that time, some courts are investigating whether there is de minimis efforts of investors and whether efforts of them are insubstantial factor for the investor to participate in the contract.

Other courts have a look whether the efforts of officers of the contract are predominant and more significant in comparison with those of investors in light of future expectation of profits or that efforts of those other than the investors are "the undeniably significant ones".

Finally, some courts hold that the forth prong is satisfied when the expectations of profits derive from the managerial and entrepreneurial efforts of the officers, "in unspecified manners and unspecified comparative weight as to the relative significance with investors' efforts and officers' or third parties' efforts."

C. *Analysis Under the Howey Test*

We provide our analysis of SAT below based on each Howey test factor.

**(1) Investment of Money**

As we can see in the case law analysis above, it was not difficult for courts to establish the "investment money" prong, and it was not difficult for us either.

LOYEL TOKEN has been offered to public predominantly with cryptocurrency such as Bitcoin or Ethereum. These are not money as such but on August 6th, 2013, the U.S. District Court for the Eastern District of Texas held that Bitcoin was within the definition of "money".

It is stated in the court's decision that Bitcoin may be used to purchase goods or services or to pay for individual living expenses. The only limitation of Bitcoin is that it is limited to those places that accept it as the currency.

Since Bitcoin or any other cryptocurrency has all functions inherent to a real currency, it can be considered as the "money" when it is used as consideration in forming an investment contract.

In the case at bar, purchasers acquire LOYEL TOKEN for real currency or virtual as it follows from the WP, website, and the terms and conditions.

Therefore, this element of the test is straightforward for us and push the scale towards LOYEL TOKEN being an investment instrument.

**(2) Common Enterprise**

In contrast with the "Investment of Money" prong, LOYEL TOKEN does not satisfy either common enterprise or vertical element of the Howey Test.

According to the above-mentioned rules, the horizontal common enterprise is found where investors combine their investments in one pool and the fortune of each investor depends on the success of the overall enterprise. And in some courts, judges are seeking to decide whether a pro rata sharing of profits takes place.

The key essence of this approach is that investors are tied together in their risks either to receive or to lose everything. That is not the case in our circumstances.

Beyond the doubt, the one would definitely fail to argue that investments are not pulled together. The founders of the project are those who undeniably promote gathering of funds not only for further development of the Platform but for marketing and personal purposes also. The WP proclaims that funds must be collected and used in accordance with their business plan. The road map and funds distribution is provided in the WP.

Another element for the horizontal common enterprise that has to be found is the dependence or, on the contrary, independence of the enterprise founders and each token holder. Under our circumstances, it cannot be inferred that the fortune of each investor depends on the success of the overall enterprise.

The one would definitely argue and will be right that in respect of launching the Platform success of each token holder shall indeed be equal to success of another, as the failure to develop the Platform would affect all token holders. However, this argument has many flaws.

First of all, it can be inferred that the Platform (MVP) will be developed in 2019 year.

Secondly, we believe that with regard to the use of the Platform participants and the Founders are more likely independent. As it was recorded in the fact- based analysis *"the Founders act in the market of the Platform as independent players seeking their own benefits."* Hence, we may declare that it is more likely that the fortune of each LOTTO TOKEN does not depend on the fortune of the Project.

Finally, the Platform is not designed to share any profits with the LOTTO TOKEN holders of the Platform.

In the vertical enterprise test, it is not necessary that the funds of investors are pooled, what must be shown is that the fortunes of the investors are linked to those of the promoters, thereby establishing the requisite element of vertical commonality. Thus, a narrow vertical enterprise exists if a direct correlation has been established between success and failure of the promoter's efforts and success and failure of the investor.

The risks a LOTTO TOKEN holder accepts are more likely of different nature as compared with those risks that promoters incur (founders or some third parties).

The Promoter's risks are failing to use the funds in a manner not prescribed in the WP or in a proper way or end in a fiasco either with squeezing of funds or with developing the system or its running or not finding the critical amount of users that would boost the economy of the System. In all other cases, it is more likely that the promoters' risks do not correlate with those of the users. We are inclined to believe that, in general, LOTTO TOKEN holders risk only if the declarations contained in the WP will not be implemented.

In broad vertical commonality, investors' success depends on the efficacy of the managers or third parties. If the investor relies on the promoter's expertise, then the transaction or scheme represents a common enterprise and satisfies the second prong of the Howey Test.

Once the Project has been launched and the Platform works properly, every member of the Project starts to pursue its own purposes and thus in such pursuit will face its own

risks, misfortunes and failures that would not be commingled with the fortunes of the Project enterprise.

Therefore, and taking into account the above-mentioned, in our opinion, LOTEU TOKEN is more likely not to match a common enterprise element of the Howey Test.

**(3) Expectation of Profits**

We consider that the *"Expectation of Profits"* element is also not matched for the following reasons.

The case law that we have analyzed above revealed that the *"Profits"* definition may be construed broadly and may include not only the fiat money but also other benefits. However, even though the above-foregoing is true, it would be a superficial analysis of the Project at stake.

The case is that the expectation of profits from a purchase of any subject of value almost always takes place. Merely expectation of profit is trivial and not enough to LOTEU Token for this prong. In contrast, the one has to be primarily motivated and has to have speculative interest, for example, to resale the commodity or the right rather than interest in personally consuming the subject of value.

The case law also differentiates this distinction – for example, in Re Forman Case it was established that:

*"It is an investment where one parts with his money in the hope of receiving the profits from the efforts of others, and not where he purchases a commodity for personal consumption or living quarters for personal use".*

Applying the above-mentioned law to the case at bar, we can infer that like in any other projects LOTEU TOKEN holders will be inevitably divided into two groups – those who are seeking to use the Product and those who merely intend to trade on the secondary market. And we have to admit that some people in the first group of the Token holders may enter the exchange market to sell the Tokens due to its market price appreciation.

Nevertheless, this profit may not be deemed as generated from the *"efforts of others"*. As we see from the facts described below, the Platform is designed in a way to provide its holders with real licensing rights.

As we revealed in the WP, Platform introduces an independent intellectual property object that is the Platform. And in this regard it is likely that LOTEU TOKEN holders merely use both of them as a software. And, perhaps, that is a predominant interest of LOTEU Token holders.

Therefore, it is more likely that LOTEU Token holders' genuine interest in using Tokens is predominantly centered around consumption.

Should we believe we in another scenario, an investment contract would be met every time in our life when we acquire any commodity or right since many subjects may be appreciated in the future and sold on the secondary market. Several case laws also support this conclusion. In Re Vineo the court asserted that

*"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 act. In a sense anyone who buys or sells the horse or an automobile hopes to realize a "profitable investment". But the expected return is not contingent upon continuing efforts of another". Steve v. Merrill Lynch, 253 F. Supp/ 339, 367 ( S.D.N.Y.1966).*

We also investigated the marketing campaign run by the Founders, and it does not reveal any provocative material that would entice people to use LOYEU TOKEN for speculation purposes on the exchange market and in any other way save for personal use.

Therefore, and taking into account the foregoing, we suppose this prong is more likely to push the scale towards LOYEU TOKEN being not deemed as a security. However, for the secondary market players it might be deemed fulfilled.

**(4) Solely from the Managerial Efforts of Others**

Analyzing this prong, courts consider whether the potential investors expect to receive profits 1) from their own efforts (use of rights or services obtained from promoters) or 2) from the efforts (managerial expertise) of the others (promoters, managers).

As we discussed above, not all courts share the approach of the Supreme Court using the term *"solely"* that defines the efforts of others.

If we apply the concept *"sole"* from the efforts of others, this prong is more likely not to be satisfied. In our opinion, holders use it also as means of payment, so the more transactions they make, the more attractive Platform's Ecosystem is.

However, some federal courts later relaxed this approach exploiting *"de minimis"* efforts of others or the concept of *"undeniably significant"* or *"predominantly"* affair. In Ike Forman case. So even if the investor has the power to be involved, the transaction may still be an investment contract if the efforts of others predominate.

*"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 formum case; SEC v. Glenn W. turner Enters., 474 F.2 d 476 aac.29 ( Feb.1, 1973)).*

However, we are inclined to believe that LOYEU TOKEN holder will rely on the managerial and entrepreneurial efforts of the Founders only to the extent that the latter will further develop the Platform that would permit all parties of the Ecosystem to communicate and apply all functionality of the System as they deem fit. Besides and as we discussed above all profit derived from the use of the Platform may be obtained only from their own efforts.

Without any doubts, LOYEU TOKEN holders observe the marketing campaign. However, as we may see from the facts analysis provided above, the Founders do not assert in any marketing materials either on the website or in the reviews that the Project may generate any investment profits for LOYEU TOKEN holders.

At any rate, this prong is more likely not to be satisfied.

## IV. Summary and Conclusion

The first prong is definitively satisfied and no one shall state that courts will consider in another way.

The second prong is more difficult and debatable. However, our analysis has revealed that this element is not satisfied under both theories applied by the federal courts.

The third element is not satisfied too.

Finally, the last prong is not satisfied.

To conclude, since not all the elements of Howey Test are met, in our opinion, LOYEC TOKEN may not be considered as a security instrument.

Nevertheless, it should be noted that the Howey Test has not yet been directly applied by courts to any Intro Sellers.

THE ABOVE ANALYSIS IS BASED ON INFORMATION OBTAINED FROM A REPRESENTATIVE OF THE PLATFORM, WHITE PAPER OF THE PROJECT AND ITS WEBSITE. THE SEC OR A COURT OF COMPETENT JURISDICTION MAY REACH AN ALTERNATIVE CONCLUSION TO THAT STATED IN THIS LEGAL OPINION LETTER. NO WARRANTIES OR GUARANTEES OF ANY KIND AS TO THE FUTURE TREATMENT OF SAT BOX DEB OR SENDLAB TOKENS ARE BEING MADE HEREIN.

NOTICE TO THE RESIDENTS OF THE UNITED STATES

IF YOU ARE FROM THE UNITED STATES OF AMERICA, WE HEREBY INFORM YOU THAT TO THE BEST OF OUR KNOWLEDGE, THE OFFER OF SALE OF TOKEN DOES NOT REPRESENT THE SALE OF A SECURITY. THEREFORE, THE OFFER OR SALE IS NOT REGISTERED IN ACCORDANCE WITH THE UNITED STATES SECURITY LAWS. IN CASE YOU RECEIVE OTHERWISE, PLEASE ADVISE WITH YOU LEGAL CONSULTANT AND NOTE THAT NO ACTION MAY BE BROUGHT OUT OF THIS LEGAL OPINION.

NOTICE TO THE RESIDENTS OF CHINA

IF YOU ARE FROM CHINA, WE HEREBY INFORM YOU THAT TO THE BEST OF OUR KNOWLEDGE, THE OFFER OF SALE OF TOKEN DOES NOT REPRESENT THE SALE OF A SECURITY. IN CASE YOUR RECEIVE OTHERWISE, PLEASE ADVISE WITH YOU LEGAL CONSULTANT AND NOTE THAT NO ACTION MAY BE BROUGHT OUT OF THIS LEGAL OPINION. PLEASE, BE ADVISED THAT TOKEN ARE NOT TRANSFERABLE WITHIN THE TERRITORY OF REPUBLIC OF CHINA IF OTHERWISE IS NOT STATED BY THE APPLICABLE LEGISLATION OF REPUBLIC OF CHINA.

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