

PRIVILEGED AND CONFIDENTIAL

To: Mr Arnav Kishore, BoltCoin OÜ and Bolt Sports Technologies Private Limited
From: Hedman Partners Attorneys-at-law
Date: April 18th, 2018

MEMORANDUM

On the classification of BoltCoins under the Estonian securities law

Hedman Partners Attorneys-at-Law (“**Firm**”) is pleased to provide you with an analysis of whether the BoltCoin token (“**BoltCoin**”) to be distributed by the Estonian company BoltCoin OÜ would be regarded as securities under the Estonian securities law. The present legal memorandum is based on legal acts valid in Estonia on the date of this memorandum. The characteristics of BoltCoins are based on the BoltCoin whitepaper draft v 1.0 as made available to the Firm on 14.04.2018.

1. OVERVIEW OF ESTONIAN LEGISLATION

- 1.1. As of the date of this memorandum, there is no specific legislation or case law developed in Estonia or on the European Union level for regulating initial coin offerings (“**ICOs**”). Lack of specific legislation does not mean, however, that the law does not apply to ICOs. Depending on different ICO models and characteristics of the tokens issued, the ICO may be regarded as a public offer of securities and, thus, be subject to the requirements of the Estonian Securities Market Act (“**SMA**”). As a result, if a token were to be regarded as a security, its issuance in course of the ICO would have to be carried out in accordance with the laws applicable to security issuance.
- 1.2. Under the SMA section 2 subsection 1 a security constitutes a proprietary right, obligation or contract transferred from one entity to another. To support this vague definition the SMA additionally establishes that a security can be (among else) “a share or other similar tradable right”. While a token cannot be a share it could potentially be regarded as “a similar tradable right”, and thus, fall under the definition of a security.
- 1.3. In practice, the European Union and Estonian regulators determine whether an instrument is a security or not based on its functions. This means that if the function of the token is to grant its holder rights related to ownership of the company, company management (voting rights), right to receive part of the company’s profit in the form of dividend (or otherwise) or other rights that are similar to the rights of shareholders, it can be concluded that the token effectively functions as a security and thus will be subject to the relevant regulation. Additionally, a token may be regarded as a security if it factually has been constructed to provide an investment incentive to the investors via linking the value of the token with certain underlying assets or using other mechanisms which purpose is to provide investors an incentive to earn monetary profit (i.e. the tokens create an expectation of profit). If the tokens issued in course of an ICO

have characteristics of securities, such tokens (“**Security Tokens**”) are subject to the provisions of the SMA, in the same manner as shares, bonds and any other securities. Most notably, issuing Security Tokens would require drafting a prospectus and the Security Tokens would have to be registered in a centralized securities register.

- 1.4. In contrast, utility tokens (“**Utility Tokens**”) are not considered as securities, as their functions considerably differ from that of a security. For the purpose of this memorandum, each token which would not be regarded as a Security Token under the Estonian security laws is a Utility Token. As such, Utility Tokens include tokens, which (i) function as a virtual currency in a closed ecosystem; (ii) enable to access the platform of the token issuer; (iii) enable to use the services or systems of the token issuer; (iv) incorporate a right to vote on the community decisions of the issuer’s platform, etc.
- 1.5. It must be borne in mind that as of the date of this memorandum the risks associated with the token being regarded as a security, and thus, any action being taken against the issuer, are theoretical. In practice, as of today the Estonian Financial Supervisory Authority (“**EFSA**”) has not started proceedings against any token issuers. EFSA’s action has so far been confined to issuing a public warning regarding tokens it suspects to be fraudulent. However, it cannot be excluded that EFSA will, at one point, start proceedings against companies it deems to issue Security Tokens. As potential repercussions, a misdemeanor procedure may be commenced against the issuer of unauthorized securities as well as criminal proceedings, should the activities of the issuer be regarded as investment fraud.
- 1.6. To understand whether BoltCoin may be regarded as Security Tokens we will first map the rights that these tokens provide to their holders and thereafter analyze such rights on the basis of Estonian security laws and principles.

2. FUNCTIONS AND RIGHTS ASSOCIATED WITH THE BOLTTOKEN TOKEN

- 2.1. Based on the information available to the Firm, BoltCoin function as a payment/reward mechanism in the various transactions carried out (primarily) within the Bolt ecosystem. Specifically, the BoltCoin tokens enable to carry out the following transactions:
 - (a) compensating the access and use of the Bolt platform;
 - (b) purchasing products and services on the Bolt or partner platforms;
 - (c) rewarding platform users for completing certain challenges or goals (the token’s “mining” capability);
 - (d) creating public or private challenges or competitions between users of the Bolt platform;
 - (e) staking BoltCoins as a collateral for enabling inter-user betting on the Bolt platform.
- 2.2. In addition to its payment and reward function, the BoltCoin tokens enable to use the Bolt platform, purchase certain services provided therein for a discount or enable the tokenholder to participate in a loyalty program of Bolt or its partners.
- 2.3. Furthermore, BoltCoins may become tradable on various cryptocurrency exchange platforms, making it liquid and potentially subject to cryptocurrency market speculation. However, the value of BoltCoins is not attached to any underlying asset and the BoltCoins do not comprise a buy-back right of the token issuer or any third party, as a result of which there is no profit mechanism incorporated into the token.
- 2.4. Finally, BoltCoin holders are not eligible to:
 - (a) vote on the business affairs of BoltCoin OÜ, such as the business model pursued, the appointment of board and council members, distribution of profits, etc.;
 - (b) receive dividends, possess information rights or other similar rights, which may generally be associated with shares of a company;

(c) obtain direct or indirect ownership of any legal entity or asset, other than BoltCoin tokens.

3. LEGAL CLASSIFICATION OF THE BOLTTCOIN TOKENS

- 3.1. In order to determine whether a token would be a security, each of its functions must be assessed. According to the guidelines provided by the Estonian Financial Supervision Authority, a token is considered to be a security if it possesses any of the fundamental characteristics of shares, futures, bonds or other types of securities, such as providing ownership rights to a corporate body, representing certain underlying assets, providing profit rights, etc.
- 3.2. Hereafter, based on the above-described legislative framework, the key functions and rights incorporated into BoltCoins are assessed to determine whether they cause BoltCoins to be securities:

Function I: BoltCoins as a payment mechanism

Based on our interpretation of Estonian law and previous correspondence with the Estonian Financial Supervision Authority, if a token, directly or indirectly, functions as (or replaces) a payment mechanism, such functionality is not a characteristic of securities. Therefore, the right to use BoltCoins to pay for accessing the Bolt platform, purchasing various products or services or enabling the tokens to be used as a collateral will not deem BoltCoins to be securities.

Function II: Discount rights attached to the BoltCoins

As a secondary function, BoltCoins may provide its holders the right to receive certain products or services provided via the Bolt platform for discounted prices. It is our finding that such function also cannot deem the token to be a security. Primarily, European Court of Justice has previously expressed that a voucher that offers discount when purchasing goods does not give the voucher's owner ownership rights to a company or to its immovable or movable property and thus could not be considered a security, which likewise applies in regard of the BoltCoins. Furthermore, it is generally accepted in the Estonian and EU legal practice that the benefits provided by vouchers and discount coupons do not constitute as expectation of profit to their holders. Similarly, the discount function incorporated into a token should not be deemed to create an expectation of profits to its owner. Therefore, it can be concluded that the discount rights provided to the BoltCoin holders do not constitute characteristics of securities and, as such, do not cause the BoltCoins to be regarded as securities.

Function III: The reward rights provided to BoltCoin holders and the Bolt platform users

The reward rights, i.e. the right to receive additional BoltCoins if certain activities and/or conditions are fulfilled, could only cause the token to be a security, if such right would create an expectation of profit, which is intrinsically connected to the token. In the current case it is the finding of the Firm that the reward rights provided by Bolt cannot cause the BoltCoins (nor the legal contract between Bolt and the Bolt platform user) to be regarded as securities. While the reward rights described provide benefit for the tokenholders, such benefit is received due to personal and specific effort of the token holder. In comparison, the profit right of securities is a passive right enabling to receive an undetermined amount of profit due to the rise in value of the asset underlying the security. As such, the characteristics of reward rights as provided by Bolt do not constitute as profit rights and therefore do not cause the BoltCoin to be a security instrument.

- 3.3. BoltCoins may potentially be exchanged on various cryptocurrency exchange platforms and, due to the market demand, it is possible that the value of BoltCoins will rise in time.

Regardless, the value of BoltCoins is not tied to the value of BoltCoin OÜ or any other entity and BoltCoins do not provide dividends or other profit rights. Thus, BoltCoins do not have any profit earning mechanism incorporated into the token, which would provide the token buyers an incentive to buy BoltCoins for merely investment purposes. The mere fact that the market value of BoltCoins may increase in time due to (i) limited amount of BoltCoins, (ii) increase of demand of BoltCoins and (iii) the speculative nature of the current cryptocurrency market, and therefore benefit token buyers cannot be deemed as a basis for determining BoltCoins to be regarded as securities.

3.4. BoltCoins do not have any intrinsic profit mechanisms incorporated into the token and its value is determined by the supply and demand of the public crypto market. However, as can be seen in the whitepaper of BoltCoin, as well as the BoltCoin onepager document available to the Firm, BoltCoin is marketed as a “viable long-term investment opportunity” and “with potential for capital gains”. It must be borne in mind that the concept of Utility Tokens directly opposes a token which purpose is to function as an investment instrument, i.e. earn profit for its owner. Therefore, the above-indicated marketing slogans undermine the claim that the BoltCoins are Utility Tokens as the purpose of such marketing slogans is to explicitly create expectation of profit for the prospective tokens buyers.

4. **RECOMMENDATIONS**

4.1. The Firm’s recommendations in order to avoid BoltCoins being regarded as securities are as follows:

- (a) The terms “investor”, “investment” and other terms which indicate that the purchase of BoltCoin is an investment should be avoided in the whitepaper, website of Bolt as well as any promotional material promoting BoltCoins;
- (b) Any slogans and references, which indicate that purchasing BoltCoins would provide an opportunity to earn monetary profit should be avoided in the whitepaper, website of the Bolt as well as any promotional material promoting the BoltCoin.

4.2. In addition to the recommendations for the purpose of avoiding securities’ regulation applying to the public sale of BoltCoins, the Firm, having read the whitepaper and analyzed the activities of BoltCoin OÜ, hereby provides some general comments and suggestions in regard of providing the Bolt platform and the accompanying services:

- (a) By providing the service of storing users’ cryptocurrencies (and possibly exchanging the BoltCoins against fiat-currencies), BoltCoin OÜ is required to obtain the Estonian crypto wallet license (and possibly the crypto exchange license). These licenses are relatively easy to obtain as (i) the procedure to obtain both licenses is identical and (ii) the key obligation for obtaining the license is creating the procedural rules and risk assessment for money laundering and terrorism financing prevention purposes and appointing a contact person in Estonia responsible for ensuring compliance with the Estonian money laundering and terrorism financing prevention regulation. The more difficult task is factually complying with the Estonian money laundering and terrorism financing prevention regulation, as it requires carrying out a very thorough know-your-customer procedure as well as examining on an on-going basis the transactions carried out via the Bolt platform for the above purposes.
- (b) Enabling users to earn prizes by betting on an outcome, which is partly or fully dependent on chance and not under the control of the users may require obtaining the Estonian gambling activity license. However, further analysis is required in order to draw exhaustive conclusions.

- (c) By structuring BoltCoin as a general-purpose currency, intended to be used in various platforms (including third party platforms) and enabling to pay for extensive number of products and services (including products and services not provided by BoltCoin OÜ or its affiliates), may deem BoltCoin to be e-money, which would require BoltCoin OÜ to register as a e-money institution. However, there are several exemptions available, which may be applicable to BoltCoin OÜ, excluding the applicability of e-money regulation. Further analysis should be carried out in order to determine the above.
- (d) Please be advised that as you will be providing services to EU citizens, Bolt is required to adhere to the EU data protection regulation, notably the GDPR entering into force on May 25th 2018. As BoltCoin OÜ (or any other entity providing the services related to Bolt platform) will be processing health data, which is regarded as sensitive data under the current and new regulation, it is advised to thoroughly assess the obligations it will be subject to under the GDPR. For example, obligation to appoint a data protection officer, register the data processing activities and (presumably) carrying out an impact assessment will all be applicable to BoltCoin OÜ.

5. CONCLUSION

As the main functionality of the BoltCoin token is to provide a payment and reward mechanism for the users of the Bolt platform and considering that (i) BoltCoin holders do not acquire ownership or equity interest in BoltCoin OÜ or any other entity, (ii) there are no intrinsic rights or functionalities incorporated into BoltCoin tokens which would incentivize token buyers to purchase Boltcoins for investment purposes and (iii) BoltCoins do not have other fundamental characteristics of securities, we are therefore of the view that BoltCoins cannot be qualified as Security Tokens. Therefore, it is our finding that the Estonian security regulation should not apply to issuance of the BoltCoin tokens. However, promoting Boltcoins as an investment opportunity undermines the notion that the pertinent token would be regarded as a Utility Token. Therefore, the Firm advises to amend the whitepaper and the promotional material by removing references indicating that purchasing of BoltCoins is an investment and refraining from creating expectation of profit for the token buyers.

Yours sincerely,

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Partner | Attorney-at-law

Henrik Trasberg
Lawyer

Legal disclaimer - the information and generalizations contained in this memorandum are not absolute and cannot be applied in every individual case. This memorandum in whole and parts of it shall be considered the opinion of the above signing persons, expressed when analyzing the questions provided to the Firm, and could be used only to refer to the above discussed issues.

The above signing persons shall not be liable for the above provided memorandum in case of change of the currently valid legal acts, position of the Estonian Financial Supervision Authority as well as change of the circumstances and facts in accordance to which the above memorandum has been provided.

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