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Memorandum Legal Opinion in re Aunite Group Token Sale

Introduction

Aunite Group (IAC) is an automated platform bringing together the best features of cashback services and partnership programs. IAC sell tokens, which will be used as an Aunite purchaser discount on the Platform.

This Memorandum sets forth legal opinion as to whether the sale of the AutoToken would likely be considered as securities offering pursuant to existing regulatory acts of USA. This Memorandum contains information why the firm concludes, according to materials that has been provided to us by the Organizer, that the AutoToken is likely not to be considered as security by competent state authorities. This opinion relates solely to the question of whether AutoToken is likely to be considered a security or not, based on the information provided to us and the analysis below. It does not endorse any offerings, products, services or brands.

Applicable Standards

Analysis of AutoToken is based on the norms and laws of the United States existing on the date of preparation of this Memorandum, and on the materials that were provided to our company by the Organizer. Along with the norms of the current legislation, the following sources have also been used: *Case Securities and Exchange Commission vs. W. J. Howey Co., 328 U.S. Liberty Exchange Act of 1934: (The DAO Case), and Cease and Desist Order of SEC, release №10445, from December 11,2017 (The Munchee Case).*

For the purposes of giving this opinion, we have examined the following documents:

1) IAC Whitepaper https://www.auto-club.io/wp-content/uploads/White-Paper-IAC-En.pdf (Accessed on August 10, 2018);
2) AutoClub Website https://www.auto-club.io/ (Accessed on August 10, 2018);
3) IAC Light Paper https://www.auto-club.io/docs/auto_lp-en.pdf (Accessed on August 10, 2018);

The documents aforesaid are not independently verified by our firm, are not drafted by our firm and we take no responsibility for the content of these documents.

Analysis in accordance with USA Securities Act of 1933

This section sets forth our firm's legal opinion as to whether the AutoTokens sale would likely constitute securities offering for purposes of USA Securities Act of 1933 ("S.A. 1933").

According to Section 2(a) of S.A. 1993 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, preorganization 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.

I. Howey Test

According to the information, that was provided by the Organizer, buying AutoToken by potential participants may be evaluated as concluding of an investment contract. But, the term "investment contract" is still undefined by the Securities Act or by relevant legislative reports. From the other hand, this term is described in the fundamental Supreme Court *Case Securities and Exchange Commission vs. W. J. Howey Co., 328 U.S. 293 (1946).*

According to mentioned above Case, 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.

Though, we can distinguish 4 main requirements to contract (also known as "*Howey test"),* that has to be met for contract to be considered as investment (e.g. security):

1. An investment of money.

2. In a common enterprise.
3. Reasonable expectation of profits.
4. Such profits have to be derived from the entrepreneurial or managerial efforts of others.

In order to be considered a security, **all four requirements must be satisfied**.

Most recently, the SEC Division of Enforcement's investigative report involving *DAO tokens* revealed that tokens that function *like investment contracts* under *Howey* will be treated as securities. This report is extremely valuable. because the DAO Report applied the *Howey* test to digital tokens offered and sold by a virtual organization known as "The DAO".

The DAO Report is a clear warning signal to the industry and market participants that the federal securities laws of USA "apply to those who offer and sell securities in the U.S., regardless of whether the issuing entity is a traditional company or a decentralized autonomous organization, regardless whether those securities are purchased using U.S. dollars or virtual currencies, and regardless of whether they are distributed in certificated form or through distributed ledger technologies.

To determine whether AutoTokens are securities, we have examined each of the *Howey* factors (in light of the SEC's analysis of the DAO tokens and the SEC's analysis of the Munchee token).

1. Investment of Money

Under *Howey,* an investment of money may include not only the provision of capital, assets, and cash, but also goods, services, or a promissory note. In short, to constitute a security, there must be a contribution of value.

An ICO, **always** involves participants investing their money to obtain a benefit in future, whether it will be the final product, exchange for services, the right to obtain passive income, the right to manage the project or other similar rights.

According to the mentioned above broad interpretation of a money investment, SEC's evaluate investment of digital currency as an investment of money. Though, according to information, that was provided to us by the Organizer, distribution of AutoToken will be executed through procedure of ICO. Tokens which are sold in a crowd sale, at any time, regardless of whether sold for fiat or digital currency (or anything else of value) involve an investment of money.

Therefore, AutoToken sale would constitute an investment of money. Our firm reaches this conclusion notwithstanding the fact that there is a fixed maximum relative to the total amount of funds raised and purchased (50 000 000 United States Dollars)

2. Common Enterprise

To be a security, the investment of money must be *"in a common enterprise."* Different courts use different tests to analyze whether a common enterprise exists. The two dominant approaches are horizontal and vertical.

Under the horizontal approach, a common enterprise is deemed to exist where multiple buyers pool funds into an investment and the profits of each investor correlate with those of the other buyers such that the fortunes of all investors rise and fall together. Whether funds are pooled appears to be the key inquiry, thus, in cases where there is no sharing of profits or pooling of funds, a common enterprise may not be deemed to exist.

Conversely, the vertical approach looks at whether the profits of the buyer/investor are tied to the promoter/organizer such, that the fortunes of buyers and sellers rise and fall together. More precisely, vertical commonality exists where the financial success of the seller's enterprise itself rises and falls with the value of the tokens.

Moreover, under *Howey,* regulator will evaluate the timeline when the ICO is being conducted. A sale of tokens before any code has been deployed on a blockchain is more likely to result in a common enterprise where the profits arise from the efforts of others. This is because the buyers are completely dependent on the actions of the developers, and the buyers cannot actually participate in the network until a later time. According to the information, that was provided by the Organizer, on the date of preparation of this Memorandum, IAC Team has a ready-made business and several practical user cases. Such situation increases chances for AutoToken sale to be considered as investment in a common enterprise.

Though, in light of the abovementioned, the sale of the **AutoToken** would **likely be considered as an investment in a common enterprise** under the horizontal approach since the tokens are fungible, and, thus, the values rise and fall together.

3. Expectation of Profits

The third requirement of the Howey test looks to whether buyers who purchased an instrument reasonably expected to earn profits from the enterprise. For tokens, this can refer to any type of return or income earned as a result of being a token holder.

The expectation of profit need not be the only motivating factor for purchasers, but it must predominate to constitute a security.

Moreover, recently SEC issued the *Cease and Desist Order of SEC, release №10445, from December 11,2017 (Munchee case),* which contains more detailed explanation of "expectation of profits" and "solely from the efforts of others".

According to the information, that was provided by Organizer, AutoToken, which will be used as an Aunite purchaser discount on the Platform (Aunite represents an internal currency for the IAC platform). Whitepaper describes the functionality of token and step-by-step usercase of token usage. Furthermore, Whitepaper of IAC Project does not provide any information regarding how participants AutoTokens sale may obtain any kind of profit. Whitepaper, Website and Terms and Conditions of AutoTokens Sale do not have any provisions regarding:

1) Listing of AutoToken on cryptocurrency exchanges,
2) Any buyback programs,
3) Any dividend payments, share of profits or similar types of payments,
4) Any rights of participation in any legal entity,
5) Any rights for obtaining any commodity in future.

Considering all these facts and based on the information provided, **it is unlikely that AutoToken to meet this requirement.**

4. Solely from the efforts of others

The fourth requirement of the *Howey* test examines whether or not the profits of an instrument are derived from the managerial efforts of others. Typically, courts have been flexible with the word "solely," such that, in addition to the literal meaning, it need only be predominately from the efforts of others. it also predominantly implies significant efforts on the part of the project's organizers or other persons, under which the invested funds will be recognized as successful.

In our situation, successes of the IAC project will depend mostly from managerial efforts of IAC Team and curators. Opportunities for token sale participants to somehow effect on successes of the IAC project are restricted. Participants will be able to use AutoToken **ONLY** as an Aunite purchaser discount on the Platform **without** the ability and possibility to exchange AutoToken token for fiat currency or any other cryptocurrency such as Bitcoin or Etherium.

Section 33 of *Munchee Case* says*:* "investors' profits **were to be derived** from the significant entrepreneurial and managerial efforts of others – specifically Munchee and its agents – who were **to revise the Munchee App**, **create the "ecosystem"** that would increase the value of MUN (through both an increased demand for MUN tokens by users and Munchee's specific efforts to cause appreciation in value, such as by burning MUN tokens).

Despite the fact that main business processes, that has direct influence on IAC project success (such as management, development, marketing) will be under sole control of the IAC Team, there

will be no change in AutoToken price.

The similar situation is observed in IAC Project.

This means that AutoToken purchasers are more likely to purchase the token only to use them in IAC application and thus, **requirement is likely to be satisfied.**

II. Family Resemblance Test

A separate securities test is the Reves "Family Resemblance" test from the US. Supreme Court decision in Reves v. Ernst and Young 494 U.S. 56 (1990), aimed at determining whether a bill should be classified as a security. The test starts with the default presumption, that a bill is a security, but this presumption may be rebutted if it bears a "family resemblance" to one of the enumerated categories on a judicially developed list of exceptions.

The Family Resemblance test considers the following elements:

1) Motivation of the parties;
2) Plan of instrument distribution;
3) Expectation of the investing public; and
4) Presence of alternative regulatory regime.

It should be noted that, unlike the Howey Test, there is no rule for all the factors to be met, but the "strong resemblance" should be proved in this case.

1. Motivation of the Parties

The first factor is described as the motivation that prompts "a reasonable seller and buyer to enter into" the transaction. If the seller's motivation is to raise money for his/her business and the buyer's motivation is to earn profits, then the instrument is likely to be deemed a security. This may also apply when the instrument has not necessarily characteristic of a security, but the investors reasonably expected that they were buying a security and would be protected by the accompanying securities laws.

In White Paper case, according to the Whitepaper, the participant should be motivated to use the functionality of the platform, as by no means AutoToken may be alienated with profit for token-holder.

2. The Plan of Instrument Distribution

The second factor of the Family Resemblance test determines whether the instrument is being distributed for investment or speculation. If the instrument is being offered and sold to a broad segment or the general public for investment purposes, **it is a security**. According to the

Whitepaper, there is a possibility to use AutoToken only as an Aunite purchaser discount on the Platform, the usercase how AutoToken may be used is provided in Whitepaper and other materials, AutoToken is not listed on secondary market (cryptocurrency exchanges), there **is no** mechanism of buy-out that allows AutoToken purchaser to receive speculative profit, AutoToken **does not** represent any rights for participation in any legal entity and **does not** give to token-holders any right for profit distribution. Everything mentioned above allows us to come to conclusion that AutoToken is more likely a product rather than an investment instrument.

3. Expectation of the Investing Public

An instrument will be deemed a security where the reasonable expectation of the investing public is that the securities laws (and accompanying anti-fraud provisions) apply to the investment. Generally, IAC Whitepaper, Website, and other marketing information does not constitute an offer or solicitation to sell shares or securities. Moreover, all of these documents emphasize that the AutoToken should not be viewed as a security. Consequently, it would be unreasonable for participating public and is unlikely that the AutoToken purchasers would expect for the securities laws to apply to this case.

4. Presence of Alternative Regulatory Regime

The fourth, and final factor is a determination whether another regulatory scheme "significantly reduces the risk of the instrument, thereby rendering the application of the Securities Act unnecessary". While the Securities Act and the Securities Exchange Act may be applied to Token Sales in the United States should the AutoTokens be viewed as a security, an alternative regulatory regime in IAC case may be the laws of Hong Kong, where Autoclub Co. Ltd., an issuer of AutoTokens is incorporated and operates its business.

Results of Family Resemblance Test

According to the analysis of the above-described elements of Family Resemblance test, based on the information provided by IAC and our analysis of all materials, it appears that the AutoToken are:

(1) Motivated to use the functionality of the platform, rather than raise money;
(2) AutoTokens are not publicly accessible for resale.

III. Conclusion

While no jurisdiction has implemented a clear and comprehensive regulatory framework specific to token sales, regulators globally are increasingly watching the space. With a growing number

of jurisdictions issuing compliance guidance with regard to the securities laws, the general trend is a move toward increased regulation. The above analysis highlights and assesses jurisdiction potentially implicated in the AutoTokens sale.

According to the information provided to us, the sale of the **AutoTokens will likely not to be considered as offering of securities in the USA** because of the following circumstances**:**

- On the date of preparation of this Memorandum*, IAC team has a ready-made business and several practical user cases.*
- AutoToken is not listed on cryptocurrencies exchanges.
- AutoToken could be used **only** in the ecosystem of IAC Project.
- AutoToken **does not** represent any rights for participation in any legal entity.
- AutoToken **does not** give to token-holders any right for profit distribution.
- AutoToken **does not** give to token-holders rights for dividends or similar payments.

Our firm has conducted analysis under the *Howey Test* and *Family Resemblance Test* to determine whether or not AutoToken token may be qualified as a security token by SEC. However, considering the regulatory warnings given by multiple international jurisdictions regarding the potential for tokens, our firm finds it necessary to advise you that many international jurisdictions have indicated that token sales may qualify as sales of investment contracts, or qualify as crowdfunding sales under pre-existing regulations, and may be regulated as such.

Yours truly,
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