

ICO TOKEN SALE THE ANTI-MONEY LAUNDERING AND COUNTER-TERRORISM FINANCING DUE DILIGENCE CHECKLIST

1. Monetary Authority of Singapore (“MAS”) stated in the Guide to Digital Token Offerings dated 14 November 2017 (the “DTO Guide”)

that digital tokens which may not be within MAS’ regulatory purview may nonetheless be subject to other legislation for combating money laundering and terrorism financing, and in particular the following:

- a. Obligations to report suspicious transactions with the Suspicious Transaction Reporting Office, Commercial Affairs Department of the Singapore Police Force pursuant to section 39 of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Cap. 65A) (“CDSA”);
- b. Prohibitions from dealing with or providing financial services to designated individuals and entities pursuant to the Terrorism (Suppression of Financing) Act (Cap. 325) (“TSOFA”) and various regulations giving effect to United Nations Security Council Resolutions.

2. The proposed Token Sale

will be similar to the operation a stored value facility, although it will not be identical to or amount to a stored value facility. As such, it is apposite to consider the MAS Notice PSOA-N02 “Notice on Prevention of Money Laundering and Countering the Financing of Terrorism – Holders of Stored Value Facilities” for AML/CFT guidance.

3. Paragraph 6.2 of PSOA-N02 states that where the organisation

“has any reasonable grounds to suspect that the assets or funds of a customer are proceeds of drug dealing or criminal conduct as defined in the CDSA, or are property related to the facilitation or carrying out of any terrorism financing offence as defined in the TSOFA, the relevant holder shall—(a) not establish business relations with, or undertake a transaction for, the customer; and (b) file an STR [suspicious transaction report], and extend a copy to [MAS] for information”. Deliverables

4. Do note that the failure to file an STR would constitute a criminal offence under the CDSA.

Section 39(1) of the CDSA states:-

“Where a person knows or has reasonable grounds to suspect that any property—

- (a) in whole or in part, directly or indirectly, represents the proceeds of;
- (b) was used in connection with; or
- (c) is intended to be used in connection with,

any act which may constitute drug dealing or criminal conduct, as the case may be, and the information or matter on which the knowledge or suspicion is based came to his attention in the course of his trade, profession, business or employment, he shall disclose the knowledge or suspicion or the information or other matter on which that knowledge or suspicion is based to a Suspicious Transaction Reporting Officer as soon as is reasonably practicable after it comes to his attention.”

It is therefore important that the Company issuing the Tokens for sale conducts the necessary due diligence measures to verify the identity of Token purchasers before executing a sale of tokens with the customer. The Company should also verify whether any potential token purchaser is named in MAS’ lists of designated individuals and entities before engaging in any sale or purchase activity with them to prevent violation of the MAS Act, United Nations Act, and TSOFA.