

PUBLIC NOTE ON THE HEAL TOKEN

This note is provided by Hedman Partners law firm, located in Tallinn, Estonia.

The assessment below focuses on whether the HEAL Tokens should be regarded as security tokens under the Estonian law, considering that the HEAL Tokens are issued by Etheal Foundation OÜ, a company incorporated in Republic of Estonia.

For clarification, the Estonian laws establish that if a token or other similar instrument has the characteristics of a security (e.g. the token comprises dividend rights, company voting rights, etc), the issuance and exchange of such token falls under the security regulation. Carrying out a public ICO for sale of tokens comprising the rights of securities (security tokens) would require registering a prospectus with the Financial Supervision Authority and fulfilling further obligations arising from security laws. However, registration of a prospectus and other obligations as set forth in the security laws are not applicable if the tokens issued in course of the ICO do not have the characteristics of a security (utility tokens).

As the HEAL Token main functionality is to provide a payment mechanism for the users of the Etheal platform and considering that (i) the HEAL Token holders do not acquire ownership or equity interest in Etheal Foundation OÜ, (ii) there are no intrinsic rights or functionalities incorporated into the HEAL Token which would incentivize token buyer to purchase the token for investment purposes and (iii) the HEAL Token does not have other fundamental characteristics of securities, we are therefore of the view that the HEAL Token cannot be qualified as a security token.

Therefore, it is our finding that the Estonian security regulation should not apply to issuance of the HEAL Tokens, accordingly Etheal Foundation OÜ is not required to take any further action to comply with the Estonian security regulation for issuing the HEAL Tokens.

Hedman Partners
14.03.2018

Legal disclaimer – The assessment above is solely based on the characteristics of the HEAL token as described in the Etheal whitepaper as available on 14.03.2018. In the current legal framework the legal boundaries between security and utility tokens remain vague since specific regulation as well as case law is lacking in Estonia and the European Union. Consequently, this note shall be solely considered as the opinion of the law firm based on the current understanding of token regulation in Estonia, whereas it is possible that legal acts, position of the Estonian Financial Supervision Authority or case law will alter the interpretation of what is to be considered as a utility token in the future.

