

# 1. INTRODUCTION

This Legal opinion was prepared to address the following concerns:

1. Whether or not **AVTOMAIN INVEST LTD**, 41 Tabernacle Street, London, United Kingdom, EC2A 4AA, PLC, 11361556, 15 May 2018 issuance of MAIN coins constituted a security contract between an issuer and an investor; and
2. Whether or not the MAIN COIN has status as a security.

SUBJECT TO THE LIMITATIONS SET FORTH BELOW, THE UNDERSIGNED IS HEREBY OF THE OPINION THAT IT IS UNLIKELY THAT THE **MAIN COIN** WOULD BE CONSIDERED A SECURITY BY THE SEC AND THAT THE INITIAL DISTRIBUTION DID CONSTITUTE A SECURITY CONTRACT.

This legal opinion is based solely on the sources of information listed in the attached annex and/or explicitly described herein. The legal opinion was prepared based on information and documents furnished by **Mr. Alexandr Firsov** Founder and CEO of **AVTOMAIN INVEST LTD**, (the Issuing Company), (including his verbal comments, publicly available documentation on the <https://maincoin.money/> website, such as the MAINCOIN Whitepaper, «Website Terms and Conditions of Use», Privacy Policy and publicly available documentation of the open source. To the extent that any additional and/or presently unidentified sources of information or newly enacted regulation materially alter the opinions contained herein, the undersigned assumes no liability.

**AVTOMAIN INVEST LTD LLC** 41 Tabernacle Street, London, United Kingdom, EC2A 4AA, PLC, 11361556, 15 May 2018.

Based on a thorough analysis of the properties and characteristics of AVTOMAIN INVEST LTD's representations and executions of their agreements with crowdfunders, it is the legal opinion of this author that the issuance of MAIN coins by AVTOMAIN INVEST LTD did not constitute an investment contract with crowdfunders who acquired MAIN, and that MAIN coins do not meet legal and regulatory criteria necessary to classify MAIN coins as a security.

This opinion is explicitly **AVTOMAIN INVEST LTD** to the law of the following jurisdictions: United States, UK, Singapore, Canada, China, European Union, UAE.

Subject to the foregoing, we hereby present this considered legal opinion concerning the regulatory status of the MAIN coin in the specified jurisdictions. Specifically, this document analyses the risk that specified regulatory agencies might regard the MAIN coin as a «*security*» so that the exchange may assess their corporate liability in facilitating transactions involving the MAIN coin.

Following the recommendations of SEC US, ESMA, FCA UK, we apply the Capital market standards to new types of digital assets, including blockchain-based technologies. This approach also helps to protect the interests of investors.

Against the background of the fall in the rate of crypto-currencies, 16th of November`18 SEC US published a statement about most of the cases of the digital assets issue met the prongs of investment contracts and got under the definition of illegal issue of securities.

However, it was definable that SEC US does not prosecute innovation. SEC's purpose is to protect the interests of investors. That's why digital asset issuers must comply with securities laws.

Therefore, any centralized trading of digital assets must be licensed as ATS. This position was called as "technology friendly approach".

Following SEC US, ESMA (the European regulator) & FCA UK taken the same position.

## 2. OVERVIEW OF AVTOMAIN INVEST LTD AND MAIN

### 2.1. Business description. Key features.

At the outset, one must distinguish between **AVTOMAIN INVEST LTD**, which is a company that has distributed utility coins for use on a particular blockchain, and the network itself. The company does not own the network, which is decentralized and maintained by MAIN holders. The MAIN coins can be utilized in a variety of ways, but only on the blockchain network. The distinction between (1) **AVTOMAIN INVEST LTD**, (2) the **MAIN** network and (3) the MAIN COINS is fundamental to understanding that, pursuant to the below analysis, **MAIN** coins are not securities.

#### **BUSINESS ANALYSIS.**

Let's look at the issue and sale of coins by an AVTOMAIN INVEST LTD as a separate unique precedent. To test it for likeness with the fact of an issue of securities or debt instruments. If so, the coinholder and the Issuer are bound by a relationship subject to securities issuance regulation. To disprove this, let's show you that the Platform is a real example of a peer-to-peer ecosystem.

#### **The MVP presence.**

The first thing on which our expert opinion is based is an assessment of the complexity and realism of the presented AVTOMAIN INVEST LTD business model. **The important point is that the team already has a «Minimum Volume Product» (MVP) at the time of coin sale.**

At the time of the crowdsale, a Protocol and a wallet were created as the basis for further development of the application for p2p platform participants.

<https://wallet.maincoin.money/>

#### **P2P Ecosystem basis of an open platform.**

AVTOMAIN INVEST LTD team creates a network based on Ethereum token solution that unites micro, small and medium-sized businesses for mutual trade with each other as members of a peer-to-peer network.

Usually, the platform users are not individual persons (consumers) and as businessmen (on B2B Platform). Users of the platform can perform at will the different roles.

AVTOMAIN INVEST LTD is an open platform that works on distributed ledger technology, which makes it open and transparent to all participants. It is designed to develop digital crypto-currency markets and objects for various purposes with their subsequent launch and integration into a unique ecosystem.

AVTOMAIN INVEST LTD will create a cryptocurrency for e-commerce while providing a payment solution for user's convenience. Basically, it is a just cryptocurrency whereby consumers can pay for services by MAIN coin.

"Payment transactions" made exclusively in coin directly from the payer to the payee, without any intermediary intervention.

Main coins network do not consider under the definition of a payment system or e-money (EMI) because services provided by technical service providers, which support the provision of payment services, without them entering at any time into possession of the funds to be transferred, including processing and storage of data.

AVTOMAIN INVEST LTD solution acts as a P2P platform connecting different businesses and consumers by integrating with blockchain.

### **Main coin services.**

The Main coin provides a services set for taxi, business networking (community), payments, agencies, Exchange, payment app solution, social contribution, wallet etc. The platform does not act as a P2P / OTC Exchange in respect of user's debt obligations. The Platform is a comprehensive service.

The list of services and features of the platform is not limited to those specified in WP. AVTOMAIN INVEST LTD provides an opportunity for any users not only to choose a role from those available on the platform but also any user able to create their own services and applications. Each participant able to acts as an independent business unit. The Main Coin gives them only the opportunity to join a peer-to-peer network. That's why the platform develops due to the network effect.

### **The Platform as a framework.**

In addition, please note that Main Coin users can create their own services and offer them to other users. Thus, the MainCoin acts as a framework and provides just a set of tools for users interested in solving their own business tasks.

Thus, the users by their own efforts create a peer-to-peer network.

Due to the fact that the Main Coin is mostly focused on participants who want to offer their products and services, the MainCoin is very likely an online network marketplace.

### **Key characteristic.**

**The Platform just provides tools to implement these features / roles and a place for communication. We can show this such as: the Platform automates traditional relationships between enterprises.**

**MAIN uses peer-to-peer (P2P) technology so there is no centralized system management. The digital pathway linking users to the network is open source. Users choose their own roles in the network.**

**It is important that the AVTOMAIN INVEST LTD is not the operator of users' transaction does not provide services of a financial agent in respect of transactions between participants of the Platform and is not a guarantor.**

**The AVTOMAIN INVEST LTD does not its own funds and does not conduct credit activities.**

**The team itself has not only commercial goals. They solve socially important tasks, such as creating access for small businesses to financial and business tools.**

**The profit or damage can be derived only from the entrepreneurial or managerial efforts of platformers.**

**The passive behavior of the coin-holders does not bode a profit for them.**

**Participants also acknowledged that possession of MAIN coins does not constitute ownership of a share of AVTOMAIN INVEST LTD.**

**The coin is the only digital device that allows one to use the MAIN network protocols. Any newcomer could become an MAIN blockchain user by participating as a crowdfunder (during the initial crowdfunding opportunity) or by buying the MAIN coin from another MAIN holder after the distribution of coins.**

**To ensure that all the statements and promises specified in the Whitepaper are implemented, the project team will raise funds from institutional investors, development funds, sponsors, banking and investment instruments. The success of the MAIN coin campaign will show investors the attractiveness of the project for subsequent investments and increased demand from ordinary users.**

**By purchasing MAIN coin, the buyer understands and acknowledges that He may use the products and services specified in the Whitepaper in the future. The purchase of MAIN coin is not an investment in a common enterprise the same as the purchase of prepaid goods or services not is be an investment. The buyer of the MAIN coin understands and acknowledges that the purchase of the MAIN coin is not an investment. The only use of the MAIN coin is to be a payment Protocol within the framework of the platform services.**

**Making a profit is not provided by the documents. In addition, it is impossible to make a profit by technical scenarios implemented on the blockchain.**

## 2.2. MAIN Coin description.

MAIN Coin is a blockchain Crypto Property «Class 1»: «Native Utility Token». Subclass: «Basic Token» (pure medium of exchange).

The MAIN coin is a discrete, native digital asset, attributed to a specific address and transferable between different addresses. MAIN is a cryptographic software product, created specifically to function within the MAIN blockchain environment.

The future of AVTOMAIN INVEST LTD architecture is just a solution relying on Ethereum for smart contracts and implementing core functionality.

The use of Ethereum Blockchain smart contracts is limited only to critical functionality and utilizes the ERC 20 Blockchain.

The MAIN coin is a functional tool for users to enter into contracts managed and executed by the blockchain protocol. Thus, the MAIN coin is a digital, cryptographic tool for the MAIN smart contract Platform.

As well as coins that users put on security deposit on the Platform to gain access to its advanced functions.

Thus, the MAIN coin has its own value (utility) and is in no way dependent on the AVTOMAIN INVEST LTD's assets.

Platform users and coinholders do not have the right or technical ability to receive any part of the company's profit.

**DEDUCING.** All possible scenarios (action) of coin holders ' actions are implemented on the basis of blockchain technology. These scenarios are different. It is very unlikely that any of these scenarios will be considered with law enforcement of security holders' rights. On the platform (framework), there is no such relationship as can be between investors (shareholders) and the enterprise.

There no any manual action is required outside of the network (e.g. off-blockchain) in order for the holder to get the benefit of the coin.

First, MAIN is very likely a technical solution. Unique technical solutions and useful effects are unattainable without the use of smart contracts and «crypto coin» technology.

The MAIN coin has its own value (utility) regardless of the founder's assets. Such digital instruments are not the «Company assets».

None of the actions of utilizing the coin carries signs of securities rights realizing.

The value of the coin does not depend on the value of the company business, the value of assets and company profit as the coins do not represent any share nor right nor does the company generate profit.

Platform users and coin holders have no voting right and technical ability to receive the relevant part of the company's profit or any claim represented by the coin other than being able to use it to transact on the Blockchain. The founders do not carry out the reverse purchase of the coin.

The company does not burn coins and coin ownership remains with other coins holder as per transaction records on the Blockchain. All transactions are tied to the blockchain. This is the equivalent of a real exchange of services between the platform participants.

Thus, the company has no rights and no technical ability to regulate the current rate (price) of coins.

The company does not hold an account coin as its own assets in accordance with the securities and accounting legislation.

## 3. LEGAL OPINION

### Preliminary Statement

The initial crowdfunding event and subsequent transactions related to MAIN should not be subject to securities regulation because MAIN, as discussed in more detail below, lacks fundamental features that define securities in most jurisdictions.

Generally stated, AVTOMAIN INVEST LTD does not rely on MAIN purchasers as a funding source, and MAIN holders have no equity or financial interest in AVTOMAIN INVEST LTD. The fortunes of the «investor» (i.e., initial crowdfunder of MAIN) are not linked to the success or failure of AVTOMAIN INVEST LTD. There is no expectation of income that is based on how AVTOMAIN INVEST LTD conducts business. When these facts are applied to the various securities regulations discussed below, it is shown that MAIN coins are unlikely securities.

### 3.1 United States Law

A detailed understanding of U.S. law is necessary for this opinion because of the weight it carries in the sizable U.S. economy and because it serves as a model to be followed in several other jurisdictions.

The United States lacks any statutory or common-law precedent that explicitly addresses cryptocurrency or blockchain technology. In July of 2017, the Securities and Exchange Commission issued a statement called the DAO report, which explicitly addressed blockchain coins. The most important result of the DAO report is the direction that existing U.S. securities law will be applied to cryptocurrency and other blockchain instruments. The question of what constitutes a security has been set forth by the Supreme Court of the United States in a case called SEC v. **Howey**.

#### 3.1.1 Howey Test

«[A]n investment contract, for purposes of the Securities Act, means 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, **it being immaterial whether the shares in the enterprise are evidenced by formal certificates or by nominal interests in the physical assets employed in the enterprise.**» *SEC v. W.J. Howey Co.*, 328 U.S. 293, 301 (1946).

- ✓ We take into account that a different Crypto Exchanges welcomes different approaches to the testing of the coin. In preparing the legal opinion, we applied two alternative methods of coin testing. Find an alternative Howey test in **Annex 1** to the legal opinion. Below you will find our author's expert research.

##### 3.1.1.1 Monetary Investment:

«[A]n investment contract exists when a person (1) invests money, (2) in a common enterprise, and (3) is led to expect profits solely from the efforts of others». See Defining An «Investment Contract»: The Commonality

Requirement Of The Howey Test, 43 Wash. & Lee L. Rev. 1057 (1986),  
<http://scholarlycommons.law.wlu.edu/wlulr/vol43/iss3/1>

There was a purchase when crowdfunders sent cryptocurrency to the issuer, AVTOMAIN INVEST LTD. Whether or not this constitutes an «investment», depends on additional factors and analysis.

Cryptocurrency constitutes «money», as opposed to «investment». The notion of investment is more complex, and hinges on what crowdfund participants expected to receive in return for their money. AVTOMAIN INVEST LTD represented that donors would receive a specified, proportional amount of MAIN multi-utility coins that are the exclusive means to access MAIN protocol functionality on the MAIN decentralized open source blockchain based network. While clearly «money» was given in exchange for a utilitarian commodity, it would be an overreach to assert that the contribution constituted an investment. Since MAIN is a utility (i.e., a means to get service), buying MAIN does not imply an investment strategy, but strictly a choice to put «money» at goods (services).

Under U.S. law, any investment assets are acquired only for investing, making a profit, preserving and with «investment» purposes.

In the case of investment agreements, buying the share of the company, or the purchase of securities there is a «Failure of consideration» when the investor gets the tokens for using platform services.

### 3.1.1.2 Common Enterprise

In the seven decades since Howey was decided, United States Courts have still not come up with a firm definition for «common enterprise», even though it is a required part of the analysis. We have set forth the varying approaches used in different jurisdictions below.

Horizontal approach - pooling of investors' money in a common venture.

Narrow Vertical approach - common enterprise is a venture «in which the 'fortunes of the investor are interwoven with and dependent upon the efforts and success of those seeking the investment....» 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. *Sec. & Exch. Comm'n v. Eurobond Exchange, Ltd.*, 13 F.3d 1334, 1339 (9th Cir., 1994).

Broad Vertical Approach - common enterprise if the success of an investor depends on a promoter's expertise. See Marc G. Alcsér, Comment, *The Howey Test: A Common Ground for the Common Enterprise Theory*, 29 U.C. Davis L. Rev. 1217 (Summer, 1996).

The shared thread that runs through each of these approaches is the notion that the entity selling the item in question, and the person buying the item are somehow in business together. With MAIN, that is clearly not the case. MAIN acts as a ticket that allows participation in the MAIN blockchain network.

One might attempt to argue that the common enterprise prong is satisfied because the value of MAIN is dependent on maintenance of the network. After all, your ticket to the amusement hall is valueless if the amusement hall shuts down. This illustration shows why the argument doesn't work. Mere patronage of the amusement hall does not make one a stakeholder in the establishment. More importantly, MAIN's status as a coin on a decentralized MAIN Coin network means that the network maintains itself.

Therefore, there is no pooling of investors' money; there is no interweaving of the fortunes of investor and those seeking investment; and the investor does not depend on promoter's expertise.

MAIN coins give holders exclusive access to participation in MAIN Coin. As a result, MAIN holders collectively (and exclusively) by virtue of owning MAIN, are in full control of their choices about how to interact directly with the MAIN Coin.

AVTOMAIN INVEST LTD provides an opportunity for any users not only to choose a role from those available on the platform but also any user able to create their own services and applications. Each participant able to acts as an independent business unit. The MAIN Coin gives them only the opportunity to join a peer-to-peer network. That`s why the platform develops due to the network effect. MAIN Coin users can create their own services on the MAIN Coin network and offer them to other users. Thus, the MAIN Coin acts as a framework and provides just a set of tools for users interested in solving their own business tasks. Thus, the users by their own efforts create a peer-to-peer network. Due to the fact that the MAIN Coin is mostly focused on participants who want to offer their products and services.

### 3.1.1.3 Reasonable Expectation of Profits

AVTOMAIN INVEST LTD has restricted its representation in connection with MAIN to the promise that MAIN coins give holders exclusive access to participation in MAIN protocols. There has never been any representation that acquiring MAIN was a path to profit.

Based on AVTOMAIN INVEST LTD`s representations, crowdfunders had no reasonable expectation of profit from AVTOMAIN INVEST LTD.

Another factor which profoundly informs reasonable expectations is the nature of MAIN as a utility coin. The coin allows the holder to take a very AVTOMAIN INVEST LTD and specific number of actions — particularly interactions on the MAIN blockchain. Thus, there is a high expectation of use, which is distinguishable from the investment properties of traditional securities.

It should also be noted that the "profitable" part of the "reasonable expectation" is removed in light of the fact that a significant part of the MAIN utility is determined by the activity of p2p business users. Such contracts may be concluded with the expectation that the individual contract will be resolved favourably, but any analysis of transactions should include the necessary role of loss in such an economic environment. The very nature of business requires the expectation of losses.

There is confidence that (a) some MAIN coins holders will make a profit while others will suffer a loss, and (b) that there will be differences based on individual choice.

Indeed, the whole premise of the MAIN Protocol is that individual MAIN holders will eventually take the risk of their own actions, and that some will lose their MAIN coins and others will acquire more MAIN coins.

Fund AVTOMAIN INVEST LTD represented that the donors will have certain proportional amount of coins MAIN, which clearly do not constitute a stake in AVTOMAIN INVEST LTD or give right holders on income, profits or dividends. In addition, the AVTOMAIN INVEST LTD does not portray the issuing company as pursuing any business strategy, model, or revenue scheme.

### 3.1.1.4 Profit from another`s effort

Any determination of whether or not something should be classified as a security absolutely requires a finding that the profit generated is from another`s effort. In the present case, this prong is not satisfied. On the contrary, the profit to be generated from the holding and utilization of MAIN is based on the holder`s OWN effort and conduct, and not that of a third party. If no one utilizes the network, then the MAIN has no value. The conduct of MAIN coin holders utilizing the network creates value in the MAIN coin.

The manner in which profits may be understood by looking at the promoter's representations. In this case, that promoter is AVTOMAIN INVEST LTD AVTOMAIN INVEST LTD. Although representations will be more impactful regarding the "expectations" prong (discussed above), they provide a detailed picture of how the prospective buyers could expect profit from purchasing MAIN. In short, the opportunity for profit comes from the coin holder's own application of MAIN coins to access the multifunction utility of the distributed MAIN open source blockchain based protocol.

It should also be noted that, in order to proceed with crowdfunding, participants were required to indicate their agreement with the Terms and Conditions., and thus explicitly acknowledged that neither acquisition nor ownership of MAIN coins constitutes a share in AVTOMAIN INVEST LTD AVTOMAIN INVEST LTD for any purpose. AVTOMAIN INVEST LTD AVTOMAIN INVEST LTD has not represent that the issuing company would generate any profits or share profits with crowdfunders by corporate efforts or by managerial effects, that is, through the management of crowdfunders' contributions

The MAIN network was originated with the assistance of crowdfunders who received MAIN coins in return for their financial support. By reviewing the nature of MAIN as a utility coin, it is shown that any profit which is derived from such possession, is based not on the actions of those who issued the coin, but rather on those who utilize the network.

Far from being in a «passive» position as investors dependent upon the issuer or a third party to derive value from an «investment», crowdfunders and all holders of the MAIN coins, are the only ones capable of deriving utilitarian value from the MAIN coins through their choices about how to utilize them to interact with the MAIN blockchain protocol.

No one can interact with the MAIN protocol without MAIN coins, therefore, the MAIN coin holders are themselves the directors and managers of the uses to which they put their own MAIN coins on the blockchain based protocol.

Moreover, the very «profit expectation» assumes a «trust» in the company's management when investor transfers funds to the Common Enterprise. In the AVTOMAIN INVEST LTD's case «the expectation» is impossible because the deal is closed after the exchange of values between coin buyers ant AVTOMAIN INVEST LTD. Then, the coin owner is solely responsible for the purchased Utility.

MAIN Coin solution acts as a P2P connecting different businesses and consumers by integrating with blockchain.

### 3.1.1.5 Conclusion: according to Howey, it is very unlikely that the MAIN Coin would be considered a security.

Based on the foregoing analysis, the opinion letter hereby concludes that, under the Howey test in United States law, it is very unlikely that the MAIN Coin would be considered a security by the SEC.

### 3.1.2 The Risk Capital Test.

Within the U.S, securities laws exist at both the state and federal levels. State statutes are called «blue sky laws». Traditional public offerings must comply with both state and federal laws. Some U.S states use a different test to determine if a coin is a security. The test is «the Risk Capital test».

The Risk Capital test has also been applied to cooperative initiatives where, under the Federal Courts' definition these cooperatives were not deemed to be securities because the members joined the club to get the benefits of membership, and not for a financial return. (Silver Hills; Jet Set Travels Club v. Corporation Com'r, 21 Or. App. 362 (1975) (hereinafter, «Jet Set»))



In Silver Hills, the Risk Capital Test determines that an investment contract exists when four prongs are satisfied:

1. funds are being raised for a business venture or enterprise (the risk capital);
2. an indiscriminate offering to the public at large;
3. a passive position on the part of the investors, i.e. investors do not affect the success of the initiative;
4. the conduct of the enterprise by the issuer with other people's money.

The court in Silver Hills held that the sale of membership to a country club was a security because the initiative utilized risk capital. The investors were risking their capital in expectation of the benefits of membership and the concept of profit was absent from that agreement. It might seem, in light of this ruling, that the Risk Capital test would allow a danger of MAIN being determined to be a security. A closer examination of the third prong, however, reveals that MAIN is not a security according to the Risk Capital test. This discussion mirrors the analysis associated with the “another’s efforts” prong of the Howey test. The MAIN was designed as a functional network. Without utilization of the the MAIN network by coin holders (including maintenance and security functions performed by masternodes), the coins will have no value. Thus, the conduct of «investors» [sic.] cannot be passive.

MainCoin Payment transactions executs by means of any telecommunication, digital or IT device, where the goods or services purchased are delivered to and are to be used through a telecommunication, digital or IT device, provided but MainCoin network has not an operators and does not act as an intermediary between the payment service user and the supplier of the goods and services.

## 3.2. Republic of Singapore.

This section sets forth our firm’s legal opinion as to whether the MAIN would likely constitute an ownership interest in AVTOMAIN INVEST LTD AVTOMAIN INVEST LTD assets or property for the purposes of Singapore’s Securities and Futures Act.

Following the SEC’s DAO Report, Singapore’s financial regulatory body and central bank, the Monetary Authority of Singapore (“MAS”), clarified its own position and treatment of coin offerings.

The statement indicated that the offer or issue of digital coins in Singapore would be regulated by MAS if the digital coins constitute products regulated under the Securities and Futures Act (Cap. 289) (“SFA”). Specifically, where digital coins fall within the definition of securities in the SFA, issuers of such coins are required to issue and register a prospectus with MAS before the offering of such coins, unless otherwise exempted.

Digital coins may be securities subject to the SFA where they represent ownership or a security interest over an issuer’s assets or property and may therefore be considered an offer of shares or units in a collective investment scheme.

However, the MAS guidance leaves open the possibility that not all coin sales are subject to the SFA and that some coin sales may be distinguishable from equity or debt interests in the issuer or its assets. To date, MAS has not explicitly declared that SFA applies to utility coins. Thus, similarly to the SEC regime, there appears to be an implied carve-out for utility coins.

Here, applying the Howey analysis above, the issuance of MAIN in exchange for cryptocurrency does not appear to trigger the SFA securities laws since MAIN functions as a utility coin rather than a representation of equity or debt interests.

MainCoin Payment transactions executs by means of any telecommunication, digital or IT device, where the goods or services purchased are delivered to and are to be used through a telecommunication, digital or IT device, provided

but MainCoin network has not an operators and does not act as an intermediary between the payment service user and the supplier of the goods and services.

### 3.2.1. Overview of applicable legislation.

In November 2017 MAS issued a Guide to Digital Coin Offerings, attempting to clarify its position on cryptocurrency and other electronic coins. The essence of the statement was that, to the extent the subject of the coin came under the purview of existing law, such law would apply. Obviously, this requires an analysis of existing Singapore law. There are two general areas of importance, (1) whether MAIN is a capital market product or (2) whether it is covered as a stored value facility (SVF), which legislation actually contemplates the concept of electronic transactions.

### 3.2.2. Capital market products.

Section 2.—(1) of the SFA, provides a detailed and multi-layered definition of capital markets products. Without providing all of those definitions here, it suffices to say that such regulated products include the following: any securities, futures contracts, foreign exchange trading, and other financial arrangements.

The principles which underlie the analysis regarding the U.S. law above and E.U. law below are applicable here. MAIN coins are not stock or any other kind of security. The holder is not in business with the issuing entity. The utilitarian nature of the MAIN coin means that it is readily distinguishable from securities and the other categories of capital markets products under Singapore law and will most likely not be subject to regulation.

### 3.2.3. Stored value facilities.

Singapore has enacted legislation that contemplates electronic forms of payment. The question is whether the code-based nature of MAIN will cause it to come under the purview of the PSOA,<sup>1</sup> which stored value facilities (SVF).

The definition of SVF can be found at Section 2.—(1) of PSOA. The key feature, for the purpose of a MAIN analysis, is that an SVF is readily negotiated as payment for goods and services. Such a use is inconsistent with the code and policy of MAIN as set forth in the White Paper. While it is possible to purchase the MAIN by paying a sum of money to AVTOMAIN INVEST LTD AVTOMAIN INVEST LTD, such a sum of money will not be available for making any payments by the user, and thus cannot be considered a stored value. Thus, it is unlikely that regulations of the stored value facilities are applied to the AVTOMAIN INVEST LTD.

### 3.2.4. Singapore overview.

The MAIN coin is unlikely to be considered a capital market instrument according to the Singapore legislation. Furthermore, it is unlikely that regulations on stored value facilities can be applied to the Company in regard to the issuance or listing of the coins.

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<sup>1</sup> Payment Systems (Oversight) Act (Chapter 222A of the laws of Singapore).

### 3.3 Canada.

This section sets forth our firm's legal opinion as to whether the MAIN coin crowdfunding event would likely constitute a securities offering for purposes of Canadian securities law.

The leading Canadian Supreme Court case for determining whether an instrument meets the definition of security is *Pacific Coast Coin Exchange v. Ontario Securities Commission*, [1978] 2 S.C.R. 112, which essentially adopts the Howey test. The Court in *Pacific Coast* articulated the test as follows:

- (i) an investment of money;
- (ii) in a common enterprise;
- (iii) with the expectation of profit;
- (iv) to come significantly from the efforts of others.

Most recently, the Canadian Securities Administrators («CSA») released guidance on treatment of cryptocurrency offerings and revealed that coins that function like securities under the *Pacific Coast* test will be treated as such. The securities laws of Canada will apply if (1) the person or company selling the securities is conducting business from within Canada; or (2) if there are Canadian «investors».

Thus, if there were Canadian involvement in the crowdfunding effort, then what is essentially a Howey analysis is required. The discussion set forth above, in connection with U.S. law, would be similarly applicable here. After careful review of the nature and utility of the MAIN, it will not be determined to be a security under *Pacific Coast*, and Canadian securities regulation will not apply.

### 3.4 China.

This section sets forth our firm's legal opinion as to whether the MAIN coin crowdfunding event will be lawful in China. Most recently, the People's Bank of China («PBOC») has announced that virtual currency transactions are «unapproved» illegal activities. The announcement is functionally an indefinite freeze on all ICOs and coin sales. The ban applies regardless of the characterization of the coins. As such, marketing or selling MAIN coins to Chinese citizens would be unlawful. On the other hand, MAIN is arguably not a virtual currency. It is a cryptographically secured asset in a blockchain-based network that has utility only within that network.

As with purchasers from every other country, any Chinese purchasers would make, or have made, their purchases subject to the AVTOMAIN INVEST LTD Terms and Conditions. Each participant formally declared that by proceeding with the purchase, they were acting in accordance with relevant legislation and regulations of all jurisdictions applicable to the participant.

## 3.6. European Union.

According to the statement issued by ESMA<sup>2</sup> on November 13, 2017<sup>3</sup>, the firms conducting ICOs shall meet the requirements imposed by the relevant Directives, including MIFID II, UCITS Directive<sup>4</sup> and AIFMD<sup>5</sup>.

### 3.6.1. Financial Instruments.

Financial instruments are defined by the Article 4(1)(15) of MIFID II as those instruments specified in Section C of Annex I of MIFID II; They are the following:

- (1) Transferable securities;
- (2) Money-market instruments;
- (3) Units in collective investment undertakings;
- (4) Options, futures, swaps, forward rate agreements and any other derivative contracts relating to securities, currencies, interest rates or yields, emission allowances or other derivatives instruments, financial indices or financial measures which may be settled physically or in cash;
- (5) Options, futures, swaps, forwards and any other derivative contracts relating to commodities that must be settled in cash or may be settled in cash at the option of one of the parties other than by reason of default or other termination event;
- (6) Options, futures, swaps, and any other derivative contract relating to commodities that can be physically settled provided that they are traded on a regulated market, a MTF, or an OTF, except for wholesale energy products traded on an OTF that must be physically settled;
- (7) Options, futures, swaps, forwards and any other derivative contracts relating to commodities, that can be physically settled not otherwise mentioned in point 6 of this Section and not being for commercial purposes, which have the characteristics of other derivative financial instruments;
- (8) Derivative instruments for the transfer of credit risk;
- (9) Financial contracts for differences;
- (10) Options, futures, swaps, forward rate agreements, and any other derivative contracts relating to climatic variables, freight rates or inflation rates or other official economic statistics that must be settled in cash or may be settled in cash at the option of one of the parties other than by reason of default or other termination event, as well as any other derivative contracts relating to assets, rights, obligations, indices and measures not otherwise mentioned in this Section, which have the characteristics of other derivative financial instruments, having regard to whether, inter alia, they are traded on a regulated market, OTF, or an MTF;
- (11) Emission allowances consisting of any units recognized for compliance with the requirements of Emission Directive. It is necessary to individually assess each of these instruments and determine whether the MAIN can be considered one of these. For the purpose of this analysis, instruments listed in Annex I Section (C) (4) – (10) can be grouped together as the derivative financial instruments.

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<sup>2</sup> The European Securities and Markets Authority.

<sup>3</sup> <https://www.esma.europa.eu/press-news/esma-news/esma-highlights-ico-risks-investors-and-firms>.

<sup>4</sup> Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (OJ L 302, 17.11.2009, p. 32–96).

<sup>5</sup> Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (OJ L 174, 1.7.2011, p. 1–73).

### 3.6.2. Transferable securities

Transferable securities are defined in Article 4(1)(44) as those classes of securities which are negotiable on the capital market, with the exception of instruments of payment, such as:

- (a) shares in companies and other securities equivalent to shares in companies, partnerships or other entities, and depositary receipts in respect of shares;
- (b) bonds or other forms of securitized debt, including depositary receipts in respect of such securities;
- (c) any other securities giving the right to acquire or sell any such transferable securities or giving rise to a cash settlement determined by reference to transferable securities, currencies, interest rates or yields, commodities or other indices or measures.

Although no formal test for defining an instrument as a transferable security has been devised by the European regulator, the key characteristics of a transferable security can be derived. Such characteristics would consist of three formal criteria and a substantive one.

The formal criteria would be transferability (meaning that the units shall be able to be assigned to another person), negotiability (meaning that the units can be transferred with ease), and standardization (meaning that the units are sufficiently standardized for the purposes of the ease of search and purchase).

In case of the MAIN coin (as with practically any other kind of coin) all these criteria are fulfilled: coins can be effortlessly transferred between addresses, and all MAIN are the same, which shows considerable standardization.

The fourth criterion requires a substantive comparison to a non-exhaustive list of instruments in the MIFID II. All of these items are considered securities and subject to regulation. By comparing and contrasting the asset in question a determination can be made if it is a security or not.

The examples provided are actual shares and their equivalent, bonds or other forms of securitized debt, and the derivative instruments that give the right to acquire such securities or giving rise to the cash settlement.

MAIN coins are neither shares nor bonds; their holders are not entitled to fixed income as provided by bonds. Nor does MAIN grant holders an equity stake in any corporation or any other rights, typically associated with stock or its equivalent, such as the right to receive a share of the revenue of the respective business or the right to vote or otherwise define the course of business of the issuer. MAIN holders do not have the right to acquire any such securities, and there is no cash payout that arises from holding the MAIN, since no obligation of payment exists in regard to the MAIN holders.

**It is unlikely for the MAIN to be considered transferable securities under MIFID II.**

### 3.7. U.A.E.

However, nowadays the laws of the United Arab Emirates do not directly prohibit the public offering of digital assets. With respect to the UAE, from an issuer's perspective, the relevant regulatory bodies to consider are the Dubai International Financial Centre (DIFC), the Securities and Commodities Authority (SCA) and the Abu Dhabi Global Markets (ADGM).

Generally, the position in the UAE is that ICOs are not currently regulated and there is, therefore, no source of legislation that deals specifically with the topic, nor any restrictions that apply to the manner in which a token offering should be implemented.

The Abu Dhabi Global Market (ADGM) issued supplementary guidance through the Financial Services Regulatory Authority (FSRA) on the Regulation of Initial Coin/Token Offerings and Virtual Currencies under the Financial Services and Markets Regulations (FSMR)' in October 2017 (the «guidelines»).

The guidelines seek to provide some direction as to how ICOs are to be treated by local authorities and regulators. They state that if ICOs are deemed to be an offering of «Security Tokens», as opposed to «Utility Tokens», they will be subject to governance by the FSRA.

The guidelines specifically state that whether an ICO is to be regulated will be assessed by the FSRA on a 'case-by-case basis' and, significantly, if ICO tokens are deemed to exhibit the characteristics of a security, the FSRA may subject them to the same regulatory obligations.

Specifically, under Sections 58 to 71 of FSMR and Chapter 4 of the Markets Rules, "when an Issuer wishes to make an Offer of Securities to the Public in or from the ADGM, these requirements include, for example, the obligation to publish a Prospectus under Section 61 of FSMR".

The guidelines further explain, «not all ICOs constitute an Offer of Securities under the FSMR or Market Rules».

«Where tokens do not have the features and characteristics of Securities such as Shares, Debentures or units in a fund, the offer of such tokens is unlikely» to be considered as a securities offer, the guidelines state, and are therefore not likely to be regulated as one.

As a result, an issuer seeking to launch an ICO in or from the ADGM should approach the FSRA at the earliest opportunity to ensure that its offer is properly categorized and, therefore, exempt from FSMR regulations.

The Securities and Commodities Authority (SCA), which regulates the UAE's financial and commodities markets, issued a circular on 2 February 2018 warning investors against digital, token-based fundraising activities (including ICOs). The SCA further reiterated that it does not recognize, regulate or supervise any ICO presently and that ICO investments are not offered legal or regulatory protection. Moreover, existing securities regulations and requirements may be applicable to your proposed model now, even if your documentation (Information Memorandum and White Paper) seeks to clarify that your token offering is one of utility and not as a security. There remains a risk that regulators will treat the ICO as a securities offering, including potentially retrospectively.

**Conclusion.** However, nowadays the laws of the United Arab Emirates do not directly prohibit the public offering of digital assets. Currently, laws and taxes regarding ICOs are not established completely, including in UAE. Moreover, in the near future, we can expect governments to make a decision whether to ban, limit or tax ICOs. This could lead to restrictions in token possession and trading and could affect adversely on individuals in ways we could not predict.

### 3.8. UK

On Jan. 23, the U.K.'s Financial Conduct Authority (FCA) made public its guidelines on crypto assets.

The regulator notes that while crypto assets "have the potential to bring benefits to markets, firms and consumers, there remains considerable risks to markets and consumers."

The current FCA position on this subject is that unlike security tokens, cryptocurrencies and utility tokens do not constitute regulated securities.

According to The Payment Services Regulations UK (Negative scope / exception) "payment transactions executed by means of any telecommunication, digital or IT device, where the goods or services purchased are delivered to and are to be used through a telecommunication, digital or IT device, provided that the telecommunication, digital or IT operator does not act only as an intermediate between the payment service and the supplier of the goods and services".

## 4. Conclusion

This Legal opinion was prepared to address the following concerns:

1. Whether or not AVTOMAIN INVEST LTD's issuance of MAIN COINS constituted a security contract between an issuer and an investor; and
2. Whether or not the MAIN coin has status as a security.

**As a result of this analysis of specified international law, this author offers the following legal opinion:**

1. It is very unlikely that AVTOMAIN INVEST LTD's issuance of MAIN coins would be considered a security contract; and
2. It is unlikely that the MAIN would be considered a security by the SEC.
3. It is very likely that the MAIN is the real Utility Coin.

Very Truly Yours,

Head of Legal Department. Partner.

Lawyer Makarov Dmitry



# ANNEX N 1 to Legal opinion.

Taking into account the various requirements of the exchanges in the form of a test, we apply the test method.

## THE HOWEY TEST

A Securities Law Framework for Blockchain Coins to estimate how likely a particular blockchain coin is to be classified as a security under US federal securities law.

Instructions:

Step 1: Review each characteristic and determine whether or not it applies to the coin.

Step 2: Select Y or N for each characteristic from the drop down menu.

Step 3: Review results at the bottom of this page.

<b>Element 1: Investment of Money</b>				
<b>Is there an investment of money?</b>				
Characteristic	Points	Explanation	Examples	Y or N
There is no crowdsale.	0	Coins which are not sold for value do not involve an investment of money. For example, if all coins are distributed free, or are only produced through mining, then there is no sale for value.	The only way to acquire new bitcoin is via mining. A coin which is randomly distributed for free. Coin can only be acquired through mining or on an exchange, or by burning coins (as alternative to exchange).	N
Coins are sold for value (crowdsale).	100	Coins which are sold in a crowdsale, at any time, regardless of whether sold for fiat or digital currency (or anything else of value) involve an investment of money.	A coin which is sold for bitcoin in a crowdsale. A coin which is sold for ether in a crowdsale.	Y
Some of the coins were distributed by airdrop.	-20	The distribution of coins is not investment purposes	For example, non-commercial application	N
<b>Total for Element 1</b>				<b>100</b>
<b>Element 2: Common Enterprise</b>				
<b>What is the timing of the sale?</b>				
Characteristic	Points	Explanation	Examples	Y or N
Pre-deployment	70	A sale of coins 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.	A developer has an idea for a new protocol, writes a White Paper, MVP and does a crowdsale.	N



The protocol is operational on a test network	60	If there is a functioning network there is less likely there is to be a common enterprise where the profits arise from the efforts of others. The closer the sale is to launch of the network, the less likely there is to be a common enterprise.	A developer has an idea for a new protocol, writes a white paper and deploys a working test network before doing a crowdsale.	Y
Live network is operational	50	If the coin is sold once there is an operational network using the coin, or sold immediately before the network goes live, it is again less likely to result in a common enterprise.	The crowdsale is done at the same time the network is launched.  MAIN were created with the live network, not before.	N

**What do coin holders have to do in order to get economic benefits from the network?**

Characteristic	Points	Explanation	Examples	Y or N
All coin holders will always receive the same returns	25	If returns are paid to all coin holders equally (or in proportion to their coin holdings) regardless of any action on the part of the coin holder, then their interests are more likely aligned in a common enterprise.	«HodlCoin» holders are automatically paid an amount of ETH each week, based on fees generated by other users of the network.  Coin does not pay any return, and there is no way to earn more coins within the network (but they can be bought, sold or traded).	N
There is a possibility of varying returns between coin holders, based on their participation or use of the network	-20	If coin holders' returns depend on their own efforts, and can vary depending on the amount of effort they each put in, then there is less likely to be a common enterprise.	'Coin' holders can earn more coins by providing data storage on the network, or can spend coins to access data storage. Holders who do not provide data storage do not earn any more coins.	Y
<b>Total for Element 2</b>				<b>30</b>

**Element 3: Expectation of Profit**

**What function does the coin have?**

Characteristic	Points	Explanation	Examples	Y or N
Ownership or equity interest in a legal entity, including a general partnership	100	Coins which give, or purport to give, traditional equity, debt or other investor rights are almost certainly securities.	A developer releases and sells 100 'BakerShares' coins. Each coin entitles the holder to 1 share in Baker, Inc. A developer releases and sells 100	N
Entitlement to a share of profits and/or losses, or assets and/or liabilities	100	If one or more of these characteristics apply, the coin is almost certainly a security,	'BakerProfit' coins. Each coin entitles the holder to 1% of the profits of Baker, Inc. for the next year. A developer releases and sells 100	N

Gives holder status as a creditor or lender	100	notwithstanding the results of the other elements.	'BakerDebt' coins. Each coin entitles the holder to principal and interest repayments based on the initial coin sale price.	N
A claim in bankruptcy as equity interest holder or creditor	100			N
A right to repayment of purchase price and/or payment of interest	100			N
No function other than mere existence	100	A coin which does not have any real function, or is used in a network with no real function, is very likely to be bought with an expectation of profit from the efforts of others, because no real use or participation by coin holders is possible. Voting rights alone do not constitute real functionality.	A developer releases and sells 100,000 'SocialCoin' coins to fund the development of a new Social Network. However, SocialCoin is not required to access the network and has no real function after the sale.	N
Specific functionality that is only available to coin holders	0	A coin which has a specific function that is only available to coin holders is more likely to be purchased in order to access that function and less likely to be purchased with an expectation of profit.	'CloudCoin' is the only way to access and use a decentralized file storage network. MAIN has three main functions: 1. As Crypto Coin users can pay for products and services on all our platforms; 2. As the currency that interacts with the blockchain docademic stores patient and healthcare data in.	Y
<b>Does the holder rely on manual, off-blockchain action to realize the benefit of the coin?</b>				
Characteristic	Points	Explanation	Examples	Y or N
Manual action is required outside of the network (e.g. off blockchain) in order for the holder to get the benefit of the coin	80	A coin whose value depends on someone taking specific manual action outside of the network means that the coin is not functional in and of itself. Instead, the coin relies on a level of trust in a third party taking action off-blockchain. This sort of coin is more likely to be bought for speculation - i.e. the expectation of profits.	A developer releases and sells 'FreightCoin', which will allow the holder to pay FreightCoin to access capacity on a new real-world freight network. The network relies on legal contractual relationships and manual actions. (This alone does not make FreightCoin a security).	N
All functionality is inherent in the coin and occurs programmatically	0	A coin which is built with all the necessary technical permissions means that the coin holder does not rely on manual actions of any third party. This means that the buyers are more likely to purchase the coin for use rather than with the expectation of profit from the efforts of others.	Holders of 'SongVoteCoin' can sign transactions on the network as votes for their favorite new songs and earn rewards for doing so.	Y

<b>What is the timing of the sale?</b>				
Characteristic	Points	Explanation	Examples	Y or N
Pre-deployment	20	A sale of coins before any code has been deployed on a blockchain is more likely to result in buyers purchasing for speculative reasons with the expectation of profit, rather than practical use cases.	A developer has an idea for a new protocol, writes a White Paper and does a crowdsale.	N
The protocol is operational on a test network	10	If the sale occurs after code has been deployed and tested, the coin is closer to being able to be used.	A developer has an idea for a new protocol, writes a white paper and develops a working test network before doing a crowdsale.	N
Live network is operational	0	If the coin is sold once there is an operational network using the coin, or immediately before the network goes live, it is more likely to be purchased with the intention of use rather than profit.	The live network is launched before the crowdsale. Coin were created with the live network, not before.	Y
<b>Can the coin holders exercise real and significant control via voting?</b>				
Characteristic	Points	Explanation	Examples	Y or N
Coin holders as a whole are able to control the development team's access to funds.	-20	If the collective approval of coin holders is required in order for the development team to access the funds raised in the crowdsale, then any value realized by the coin holders is more closely tied to their own decisions, and less reliant on the efforts of others.	A development team sells 100,000 Coins for a total of 100,000 ETH. 50,000 ETH will be released from the coin contract to the development team immediately, but the remainder is only released once milestones are met, which requires approval of a majority of the coin holders each time. If the milestones are never met, the remaining ETH will be returned to the coin holders.	N
Coin holders as a whole are able to vote on significant decisions for the protocol.	-10	If the collective approval of coin holders is required in order to make significant changes to the protocol, then any value realized by the coin holders is more closely tied to their own decisions, and less reliant on the efforts of others.	Changes to the protocol require a vote by coin holders.	N
<b>Note:</b> Voting rights must be in addition to functionality. A coin with voting rights alone and no other real functionality is very likely to satisfy Element 3				
<b>How is the coin sale marketed?</b>				
Characteristic	Points	Explanation	Examples	Y or N

Marketed as an 'Initial Coin Offering' or similar	50	It is not possible to prevent some buyers from buying a coin purely for speculation. However, marketing the coin as an investment leads buyers to believe they can profit from holding or trading the coin, rather than from using the coin in the network. Using terms like 'Initial Coin Offering' or 'ICO', and investment-related language like 'returns' and 'profits' encourages buyers to buy a coin for speculation, rather than use.	'ProfitCoin' includes potential of 'high ROI' and 'investor profits' in its marketing material.	N
Marketed as a Coin Sale	0	Marketed as a sale of coins which give the right to access and use the network.	MAIN are coins which give the right to access and use the MAIN network.	Y
There is no economic return possible from using the network	-100	If there is genuinely no economic return possible for the coin holders, then there is unlikely to be a common enterprise. This will be rare.	Backers contribute to a cause and receive a 'thank you' coin which has no economic value.	N
<b>Total for Element 3</b>				<b>0</b>
<b>Element 4: Solely from the Efforts of Others.</b>				
The founders of MAIN has any ability to effect on the coin price.	10	Current coin price depends more on the network activity and dynamics of actions of the coin holders than the efforts of founders. The founders of the project can affect the price of the coin only indirectly, for example, through their personal image / standing.	Thus, we must strictly separate two different legal definitions such as "profit" and other types of "income". Because in the context of securities laws the «Expectation of Profits» means the Right to profit from the company's activities («... from the managerial efforts of others»), and this means – «Expectation of "Net profit"». Because, the «Net profit» is a result of the managerial efforts of others, including, for example, such managerial efforts as a paying taxes. The «... others» means «not the coin buyers». The whitepaper contains no declarations of promises of income to coin buyers and gives no «Expectation of Profits» to buyers. There is no share of company's profits for coin holders. Coin income can only be generated by participants own efforts of mining and validating transactions on the network	Y
The market price of coin does influence company profit.	50	The company's profits and users ' incomes are not related to each other.		N
The company profit does influence the coin market price.	50	The company's profits and users ' incomes are not related to each other.		N
The market price of the coin does not depend on the actions of the coin holders.	50	Current coin price depends on the statistics of events (network activity) and dynamics of actions of the coin holders.		N
<b>Total for Element 4:</b>				<b>10</b>

**Conclusion – the Howey Test**

Results			
Guide			
Total points	How likely is the element to be satisfied?	Total for Element 1:	100
0 or less	Very unlikely	Total for Element 2:	30
1 – 33	Unlikely	Total for Element 3:	0
34 – 66	Equally likely and unlikely	Total for Element 4:	10
67 – 99	Likely		
100 or more	Very likely	Overall Risk Score	0

A Coin will only be a security if it satisfies all four elements. The higher the score for each item, the greater the probability that the item will be satisfied.

The lowest point score from all four elements represents your overall risk score. We have not been able to identify any relationship for the issue and purchase of securities.

Our firm has conducted a thorough analysis under the Howey test to determine whether or not your coin may qualify as a utility coin. We can safely assume that the MAIN coin will not be deemed as a security per the Howey Test. It is **unlikely** that the MAIN Coin would be considered a security by the SEC.

**Very Truly Yours,**

**Head of Legal Department. Partner.**

**Lawyer Makarov Dmitry**

