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MiCA Token Qualification

Date: Zurich, April 29, 2025
              158491.01

To: Chukker App LLC (in incorporation), Zug
              (Switzerland)

From: MLaw Romedi Ganzoni
              MLaw Anne-Lorinne Mognetti

Concerning: **chukkerCoin**

I.   Introduction and Scope

1   We have been requested by Chukker App LLC (in incorporation), Zug (Switzerland) ("**Company**") to provide the following legal memorandum ("**Memorandum**") regarding the qualification of the token to be issued by the Company in relation to the Company's Chukker App ("**chukkerCoin**"), under the Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937 (EEA relevance) ("**MiCA**").

2   For this Memorandum, we have relied upon written and oral information provided to us by the Company, as summarized in Section 5.

3   The Memorandum is subject to the qualifications set out in Section V.

4   This Memorandum does not provide a regulatory assessment regarding i) any other token related or not related to Company, ii) the services provided by the Company or other entities involved, iii) the feasibility of the business model in general and iv) the applicability of any regulations other than MiCA, and MiCA Alternative Legislation (as defined in Section 15), such as in particular the applicability of any other foreign financial market regulations and/or foreign laws as a result of cross-border aspects.

II.   Executive Summary

5   Based on the following analysis, we conclude that the chukkerCoin qualifies as a **Crypto-Asset other than Asset-Referenced Tokens or an E-Money Tokens**, and more specifically as a **Utility Token** under MiCA. Furthermore, it does not qualify as a financial instrument as defined by MiFID II, as any other Excluded Crypto-Asset, as an Asset-Referenced Token or as an E-Money Token.

III.   Factual Background

1.   General

6 The Company intends to provide an app that shall have the following features:

- **Scoring & Stats Database**: The Chukker App will provide live scoring and stats database for all types of equine sports.

- **Marketplace**: The ChukkerApp will provide a marketplace designed for equine sports fans ("**Marketplace**"). The Marketplace will allow users to list physical goods and/or services related to equine sports (e.g., sports equipment, ponies, or rights to sports players or jobs) for purchase and sale. The listing will require the user to pay a listing fee in chukkerCoin. The settlement of purchases and sales will take place outside the Chukker App (e.g. cash transaction of bank transfer outside of the Chukker App).

2.   chukkerCoin

7 The Company will issue chukkerCoins.

8 chukkerCoins are ERC-20 tokens issued on the Ethereum blockchain and will have the following functionalities:

- **Listing Fee:** Users who wish to list their goods or services on the Marketplace will be required to pay a listing fee in chukkerCoin to the Company. Once the listing fee is paid in chukkerCoin, the goods or services will be made visible, enabling other users to purchase them.

9 chukkerCoin does not reflect any ownership position in the Company's capital, rights of dividend or interest payments, rights to the Company's liquidation proceeds, voting rights on the company's decision-making process, or debt claim against the Company.

10 Furthermore, chukkerCoins are not intended to be used as a means of payment for acquiring goods or services from third parties, nor as a means of money or value transfer. The Company has not marketed and will not market chukkerCoins as a means of payment or investment instruments (specifically, they will not be advertised as a payment method for third parties, a cryptocurrency, or as a vehicle for assured earnings or profits).

11 chukkerCoins will be issued only once they are fully functional, i.e., with all functionalities described under this Section.

IV.   Regulatory Assessment of chukkerCoin under MiCA

1.   MiCA Background and General Applicability

12   The European Union Parliament and Council enacted MiCA, a dedicated regulation which classifies crypto-assets into three categories: E-Money Tokens, Assets-Referenced Token and Crypto-Asset Other than E-Money Tokens and Asset-Referenced Tokens (as defined in Section 3) and lays down uniform requirements for (i) the offer of crypto-asset within the European Union (ii) the admission of crypto-asset to trading on trading platform serving the European Union, as well as for (iii) the provision of crypto-asset services within the European Union.

13   As of December 30, 2024, MiCA has become officially applicable. However, its practical implementation remains in flux and subject to ongoing developments. Current interpretations rely on existing legal doctrine, guidance from the European Securities and Markets Authority ("**ESMA**"), and available commentaries. At present, there is no case law, established enforcement practices, or comprehensive national implementation across EU Member States. As courts and regulatory bodies begin to interpret and enforce MiCA's provisions, its practical implications are likely to evolve. This Memorandum reflects our understanding based on the sources available as of the date of writing. Accordingly, the interpretations and legal reasoning contained herein may not align with future case law or administrative practices as MiCA continues to mature.

14   Under MiCA, "**Crypto-Assets**" are defined as digital representations of a value or of a right that is able to be transferred and stored electronically using distributed ledger technology or similar technology[1]. The term "value" should be interpreted broadly and include Crypto-Assets with no-intrinsic value but having a value attributed to them by the seller/buyer or by market participants (through trading on exchanges with public prices)[2]. It besides confirmed that the possibility for a Crypto-Asset to be "transferred and stored" is also to be interpreted broadly, and excluded only if the following conditions, listed in recital 17 of MiCA are met:

▪   The Crypto-Asset is accepted only by the issuer or offeror, and

▪   There is no technical possibility for the Crypto-Asset to be transferred by a holder to persons other than the issuer or offeror (e.g. certain loyalty schemes).

15   **chukkerCoin Assessment**: chukkerCoin can be used to pay Listing Fees to the Company to list goods and services on the Company's Marketplace. Hence, they have a value. Furthermore, chukkerCoin is stored on the Ethereum blockchain and can be transferred thereupon. Consequently, chukkerCoin qualifies a Crypto-Asset under MiCA.

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[1]   MiCA Art. 3 (1)(5).

[2]   EBA, EIOPA and ESMA, Guidelines on templates for explanations and opinion, and the standardised test for the classiciation of crypto-assets, under Article 97 (1) of Regulation (EU) 2023/114, Final Report, margin 18.

2. MiCA Applicability: Excluded Crypto-Assets

16 MiCA does not apply to Crypto-Assets that qualify as unique and non-fungible Crypto-Assets ("**NFT**"), financial instruments, (structured) deposits, funds (unless the crypto-asset classifies as EMTs, see below Section 2.5), securitization positions, insurance products (non-life or life), reinsurance or retrocession contracts, specific pension products, recognized occupational pension schemes, or social security schemes (together "**Excluded Crypto-Assets**", as listed and referred in article 2 (3) and (4) of MiCA and Recital (9) of MiCA).

17 For the assessment if a Crypto-Asset qualifies as an Excluded Crypto-Asset (with exception of NFTs) the following legislation, including any instruments they reference, as well as any implementing texts and guidelines, need to be taken into consideration ("**MiCA Alternative Legislation**"):

- Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments ("**MiFID II**");

- Regulation (EU) 2017/1131 of the European Parliament and of the Council of 14 June 2017 on money market funds ("**MMFR**");

- 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) ("**UCITSD**");

- Directive 2007/16/EC of 19 March 2007 implementing Council Directive 85/611/EEC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) as regards the clarification of certain definitions ("**UCITS Definitions**")

- 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 ("**AIFMD**");

- Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 ("**MIFIR**");

- Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC ("**Directive 2003/87/EC**")

- Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee scheme ("**Directive 2014/49/EU**");

- Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC ("**Directive (EU) 2015/2366**");

- Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC ("**Directive 2009/110/EC**");

- Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017, laying down a general framework for securitization and creating a specific framework for simple, transparent and standardized securitization, and amending Directives 2009/65/EC, 2009/138/EC and 2011/61/EU and Regulations (EC) No 1060/2009 and (EU) No 648/2012 ("**Regulation (EU) 2017 / 2402**");

- Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance ("**Solvency II**");

- Directive (EU) 2016/2341 of the European Parliament and of the Council of 14 December 2016 on the activities and supervision of institutions for occupational retirement provision ("**IORPs**");

- Regulation (EU) 2019/1238 of the European Parliament and of the Council of 20 June 2019 on a pan-European Personal Pension Product ("**PEPP**"); and

- Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems ("**Regulation 883/2044**").

18 Existing EU legislation (specifically MiCA Alternative Legislation) applies to Excluded Crypto-Assets instead of MiCA.

19 Therefore, this Section examines in greater detail whether the chukkerCoin falls under any of the aforementioned categories, which would exempt it from being subject to MiCA but instead subject it to other applicable EU legislation.

20 According to Section 2.3 in Section 4.3 of ESMA's Guidelines on the conditions and criteria for the qualification of crypto-assets as financial instruments[3] ("**Guidelines**"), Crypto-Assets could be hybrid tokens to the extent they encompass elements from diverse classifications, embodying a composite of characteristics typically associated with distinct types of crypto-assets (e.g. means of payment, utility-type and investment-type). When a hybrid token displays features of a financial instrument, this characteristic should take precedence in its classification[4]. Consequently, tokens that display the characteristics of a

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[3] ESMA Final Report on the conditions and criteria for the qualification of crypto-assets as financial instruments published December 17, 2024 (ESMA75453128700-1323).
[4] Guidelines Section 4.2, margin 46 and Section 4.3, margin 74.

financial instrument, do not require further qualification under MiCA, as the regulation does not apply to them in such cases.

2.1 No NFT

21 According to Section 2.3 in Section 4.3 of the Guidelines, non-fungible Crypto-Assets ("**NFT**") are defined as crypto-assets that are unique and not fungible with other crypto-assets[5]. It implies:

- ▪ **Unique Characteristics**: The crypto-asset must be demonstrably non-substitutable, possessing distinct characteristics and/or rights that set it apart from other crypto-assets issued by the same or any other issuer[6]. Non-fungibility solely on technical specifications is not sufficient.[7]

- ▪ **Interdependent Value Test**[8]: The primary value of the crypto-asset must arise from its unique characteristics or the specific utility and benefits it offers to its holder. The value of the NFT should reflect its uniqueness, and it must thus not be excessively correlated to other NFTs within the same series or collection. For instance, the existence of a common trading price across a series of Crypto-Assets could indicate a lack of sufficient uniqueness.

22 In line with article 2 (3) of MiCA, crypto-assets that meet the above criteria are explicitly excluded from the scope of MiCA.

23 **chukkerCoin Assessment**. The chukkerCoin is fungible in form, as it is issued as an ERC-20 token, and in substance, as it offers the same functionalities to all holders. Therefore, the chukkerCoin does not qualify as an NFT.

2.2 No Financial Instrument

24 Financial instruments are defined and listed in MiFiD II, Annex I Section C (1) to (11). They comprise:

a)   transferable securities,

b)   money-market instruments,

c)   units of collective investment undertakings,

d)   various derivative contracts and

e)   emission allowances.

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[5]   Guidelines Section 2.3, in Section 4.3.
[6]   Guidelines Section 4.3, margin 67.
[7]   Guidelines Section 4.3, margin 67
[8]   Guidelines Section 4.3, margin 70.

25 As a directive, MiFID II required transposition into the national legal frameworks of Member States, leading to inconsistencies and the absence of a harmonized definition of a financial instrument across the European Union. Since the applicability of MiCA requires, as a first step, excluding a Crypto-Asset's qualification as a financial instrument, has been mandated, pursuant to Article 2(5) of MiCA, to issue guidelines defining the conditions and criteria for classifying a crypto-asset as a financial instrument.

26 After a consultation paper published on January 29, 2024 ("**Consultation**")[9], ESMA published a report presenting the definitive version of the Guidelines on December 17, 2024 ("**Guidelines**")[10]. As a rule, these Guidelines prescribe focusing on the substance of the rights conferred, rather than the form[11].

2.2.1   No Transferable Security

27 A Crypto-Asset qualifies as transferable security according to article 4 (1) (44) of MiFID II, if the following three cumulative criteria are met[12]:

■   **No Payment Instrument**: The Crypto-Asset is no medium of exchange, i.e., (physical or digital) device and/or set of procedures used to make payment transactions (including liquid payment methods like cheques, bills of exchanges as well as non-cash payment tools including cards, bank transfers, direct debits, and electronic money and non-cash payment tools[13]).

■   **Class of Securities**: The Crypto-Asset forms a "class", when the Crypto-Asset (i) is issued by the same issuer and (ii) can be interchangeable, meaning, confers equivalent rights and obligations to all investors akin to the rights of other securities. The Crypto-Asset forms a "class of securities" if the rights granted by the Crypto Asset is equivalent to those typically granted by transferable securities (e.g. ownership position in a company's capital, rights of dividend or interest payments, rights to the company's liquidation proceeds, voting rights on the company's decision -making process (but not mere technical and/or operational decisions such as protocol upgrades and fee adjustments), debt akin a monetary debt like a portion of a loan.[14] Crypto-Assets which are designed as utility tokens within a specific ecosystem such as tokens used to access services, providing holders with access to premium content on a video game platform or granting discounts on future purchases (e.g. reduced transaction fees or priority access to new products) and do not provide any financial returns comparable to financial instruments (e.g. dividends or interest payments) are lacking the element of pertaining to a class of securities. This reasoning would apply even if such tokens

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[9]   ESMA published on January 29, 2024, as part of its third consultation package, the consultation paper on the draft guidelines concerning the conditions and criteria for classifying tokens as financial instruments (ESMA75-453128700-52).
[10]   ESMA Final Report on the conditions and criteria for the qualification of crypto-assets as financial instruments published December 17, 2024 (ESMA75453128700-1323).
[11]   Guidelines, Section 3.2, margin 14 as well as Section 4.3, margin 11.
[12]   Guidelines Section 4.3, margin 15.
[13]   Guidelines Section 4.3, margin 16 and 17.
[14]   Guidelines Section 4.3, margin 18.

were bought by investors with the expectation of profit due to their potential appreciation in value[15].

- ▪ **Negotiability**: The token is (i) freely negotiable (ii) on the capital markets[16]:

  - ▪ Freely Negotiable: The Crypto-Asset is considered freely negotiable if it is sufficiently standardized and interchangeable[17] to be freely transferred or traded. The abstract possibility of being transferred or traded should be deemed sufficient[18]. The existence– in practice – of certain limitations, such as temporary lockups, the absence of a dedicated market, whitelisting requirements or technical restrictions is not sufficient[19]. Therefore, this condition is potentially met by any Crypto-Asset[20]. We are of the opinion that a definitive nontransferably, being technically implemented, and immutable would, nevertheless, result in the Crypto-Asset being deemed effectively non-negotiable.

  - ▪ Capital Markets: The notion of capital markets is interpreted broadly and include all contexts, where buying and selling interest in securities meet.[21] The scope is not limited to securities listed or traded on regulated markets[22]. If the Crypto-Asset is capable of being traded on a trading platform equivalent to a trading platform within the meaning of MiFiD II, it should be a conclusive indication that it is negotiable on a capital market.

28 **chukkerCoin Assessment**. According to Section III.2 chukkerCoin can be used to pay Listing Fees to the Company to list goods and services on the Company's Marketplace. chukkerCoin does not confer rights akin to the rights of other securities, e.g. any financial returns comparable to financial instruments (e.g. dividends or interest payments). Consequently, the chukkerCoin does not constitute a class of securities because it lacks a core characteristic of transferable securities. Therefore, the chukkerCoin does not qualify as a transferable security according to article 4 (1) (44) of MiFID II.

2.2.2 No Money-Market Instrument

29 Article 4 (1) (17) of MiFID II defines money market instruments as classes of instruments which are normally dealt in on the money market, such as treasury bills, certificates of deposit and commercial papers and excluding instruments of payment.

30 Furthermore, Article 2 (2) MMFR does not provide its own definition but refers to the definitions included in Article 2 (1) (o) UCITSD, and article 3 of the UCITS Definitions. Article

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15 Guidelines Section 4.3, margin 23.
16 Guidelines Section 4.3, margin 18.
17 Guidelines Section 3.3.1, in Section 3, margin 20;
    See also Guidelines footnote 41, in Section 5.1, in Section 4.3 Annex III – no restriction that would disturb "*creating a fair, orderly and efficient market*".
18 The impact of the restrictions on the tradability and transferability of the crypto-asset requires a case-by-case analysis Guidelines Section 4.3, margin 30.
19 Guidelines Section 4.3, margin 29.
20 Guidelines Section 4.3, margin 29.
21 See Answer to Q1 in Q&As published by the Commission on MiFID Directive 2004/39/EC.
22 Guidelines Section 4.3, margin 28, footnote 40.

2 (1) (o) UCITSD specifies that money market instruments are liquid and have a value which can be accurately determined at any time.

31 Article 3 of the UCITS Definitions narrows down the above by additionally requiring the fulfillment of one of the following criteria:

▪   they have a maturity at issuance of up to and including 397 days;

▪   they have a residual maturity of up to and including 397 days;

▪   they undergo regular yield adjustments in line with money market conditions at least every 397 days;

▪   their risk profile, including credit and interest rate risks, corresponds to that of financial instruments which have a maturity, or are subject to a yield adjustment.

32 The Guidelines align with the above and outline that Crypto-Assets shall possess characteristics similar to treasury bills, certificates of deposits and commercial papers (e.g. represent a certificate of a credit balance) to qualify as a money-market instrument [23].

33 A Crypto-Asset qualifies as a money market instrument if:

▪   **Not an instrument of payment,** as described in margin 27.

▪   **Negotiability,** as also described in margin 27.

▪   **Legal, Predefined and Residual Maturity**: The Crypto-Asset exhibits a predefined or residual maturity, or a redemption date maturity as required by the Money Market Regulation. Such does in in principle make it a short-term instrument, although not always[24].

▪   **Determinable Value**: The value of the Crypto-Asset can be accurately determined at any time, and often is stable, with only slight fluctuations, stemming from accrued interest, for instance[25].

▪   **Returns Aligned with Money Market Interest Rates**: The Crypto-Asset should generate a return aligned with short term interest rates.[26]

34 **chukkerCoin Assessment**. The chukkerCoin does not possess characteristics similar to treasury bills, certificates of deposits and commercial papers. It does not exhibit a predefined or residual maturity or redemption date maturity as required for in MMFR. In addition chukkerCoin's value cannot be accurately determined at any time. Consequently, the chukkerCoin does not constitute a money market instrument according to article 4 (1) (17) of MiFID II.

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[23]   Guidelines Section 4.3, margin 33-35.
[24]   Guidelines Section 4.3, margin 35.
[25]   Guidelines Section 4.3, margin 36.
[26]   Guidelines Section 3.4, margin 34.

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2.2.3   No Unit of Collective Investment Undertaking

35 The notion of collective investment undertakings is not defined under MiFID II. Article 1 (2) UCITS defines units in collective investment in transferable securities as an undertaking with the sole object of collective investment in transferable securities or in other liquid financial assets[27], of capital raised from the public and which operate on the principle of risk-spreading, with units which are, at the request of holders, repurchased or redeemed, directly or indirectly, out of those undertakings' assets.

36 According to the Guidelines for a Crypto-Asset to be qualified as a unit in a collective investment undertaking the project attached to the Crypto-Asset should involve collectively[28]:

i)   the pooling of capital from a number of investors;

ii)   the purpose of investing this capital in accordance with a defined investment policy; and

iii)   with a view to generating a pooled return for the benefit of those investors

Each of these conditions are specified in ESMA's guidelines on key concepts of the AIFMD published on August 13, 2013 ("**ESMA/2013/611**"), and therefore, the Crypto-Asset shall meet the following criteria:

▪   **Pooled Capital**: The Crypto-Asset is used to raise capital from a number of investors to create a pool of capital. The Crypto-Asset represents the proportionate right of the investors in the undertaking (i.e., legal vehicle) in which the capital is pooled.[29] The concept of capital contributed to the pool should be interpreted broadly, encompassing fiat currency, cash equivalents, and Crypto-Asset [30]. The investment of the capital is not required to be diversified or liquid.

▪   **Collective Investment**: The project attached to the Crypto-Asset should involve collectively:

i)   **Investment Policy:** Raised capital is invested in accordance with a defined investment policy and with a view to generating a pooled return for the benefit of those investors[31].

ii)   **Absence of Day-to-Day Control over the Pool**: The holders of the Crypto-Asset, as a collective group exercise no day-to-day discretion or control over to the daily management of the investments. Such authority

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27   As listed in Article 50(1), including transferable securities, money market instruments, deposits with credit institutions and financial derivative instruments, each meeting specific conditions outlined in the said article.
28   Guidelines Section 4.3, margin 37.
29   Combination of Article 1(3)(b) of UCITSD and Consultation margin 43.
30   Guidelines Section 4.3, margin 37.
31   Guidelines Section 4.3, margin 42.

remains with the manager of the undertaking[32]. Whether decisions are made by humans, algorithms, or smart contracts is irrelevant, provided the investment decision-making process adheres to a defined investment policy[33].

iii) **No General Commercial or Industrial Purpose**: The undertaking has no general commercial or industrial purpose[34].

37 Moreover, in addition to the Crypto-Asset itself qualifying as a unit in a collective investment undertaking, the issuer of the Crypto-Asset should besides qualify as a collective investment undertaking[35].

38 **chukkerCoin Assessment**. The chukkerCoin does not represent a right in a pool of assets invested by a third-party manager based on a defined investment policy to generate pooled returns. Consequently, the chukkerCoin does not constitute a unit in a collective investment undertaking.

2.2.4 No Derivative Contract

39 Under the combined provisions of article 4 (1) (49) of MiFID II, article 2 (1) (29) MIFIR, and Annex I, Section C from C (4) to (10) of MiFID II, a Crypto-Asset would qualify as a derivative contract if:

▪ **Contract Based on Future Commitment**: The Crypto-Asset would be a digital representation of a contract where the rights of the Crypto-Asset holders are based on a future commitment. A time-lag between the conclusion and execution exists in such a contract. The derivatives contracts encompass a broad range of financial contracts, including options, futures, swaps and forwards contracts[36].

▪ **Value Derived from an Underlying Asset:** The contract must refer to an underlying asset. The notion of asset must be understood broadly and include securities, currencies, commodities, instrument, and indices, which can include various a basket of Crypto-Assets or an index on Crypto-Assets. The value of the Crypto-Asset should fluctuate based on changes affecting the underlying asset[37]. In this respect, when the value of a Crypto-Asset is established through reserved assets, rather than by synthetically referencing such assets, this Crypto-Asset should be considered as an Asset-Referenced Crypto-Asset within the meaning of MiCA (as defined in Section 4.1.2) and not a derivative[38].

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[32] Guidelines Section 4.3, margin 41.
ESMA/2013/611, Section VI, 13 August 2013.
[33] Guidelines Section 4.3, margin 39.
[34] Guidelines Section 4.3, margin 43.
[35] Guidelines Section 3.5, margin 38 footnote 15.
[36] Guidelines Section 4.3, margin 48.
[37] Guidelines Section 4.3, margin 49.
[38] Guidelines Section 4.3, margin 50.

- **Settlement Modalities**: The contract follows the settlement modalities as referred to in Annex I Section C, points (4) to (10) of MiFID II, such as cash or physical settlement (i.e. delivery of the Crypto-Assets)[39].

40 **chukkerCoin Assessment**. The chukkerCoin does not derive its value from an underlying asset, nor does it convey rights contingent upon a future commitment. Consequently, the chukkerCoin does not constitute a derivative contract because it lacks a core characteristic of such, namely the existence of a synthetic reference to the underlying asset and its value.

2.2.5   No Emission Allowance

41 Pursuant to article 3 (a) and (b) Directive 2003/87/EC and Annex I, Section C point (11) of MiFID II, for a Crypto-Asset to be categorized as an emission allowance the following criteria must be met[40]:

- **Representation a Right to Emit a Specified Volume of Greenhouse**: The Crypto-Asset should confer a clear right regarding emissions, such as the right to emit a set quantity of greenhouse gases or serve as a recognized offset for such emissions. The Crypto-Asset may be used by companies and organizations to fulfil legal obligations related to carbon emission reduction[41].

- **Tradable:** The Crypto-Asset should be tradable on third party platforms or be capable of being traded[42].

- **Compliant with the EU Emissions Trading Scheme or an equivalent**: For example, it would be the case if the Crypto-Asset represents a verifiable emission allowance recognized for compliance with the requirements of Directive 2003/87/EC[43].

42 **chukkerCoin Assessment**. The chukkerCoin has no connection with greenhouse emissions. Therefore, the chukkerCoin does not qualify as a unit of an emission allowance.

2.2.6   Interim Conclusion

43 As outlined above in Sections 2.2.1 to 2.2.5, chukkerCoin does not qualify as a financial instrument as it does not fall within the scope of any of the instruments listed in Annex I, Section C of MiFID II.

44 Therefore, the chukkerCoin is not subject to the regulatory framework established under MiFID II.

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[39]   Guidelines Section 4.3, margin 55.
[40]   Consultation Section 3.2 in Section 6.3 Annex II, margin 125.
[41]   Guidelines Section 4.3, margin 59.
[42]   Guidelines Section 4.3, margin 56 and 59.
[43]   Guidelines Section 4.3, margin 57.

2.3   No Deposits

45 The notion of deposits is defined in article 2 (1) (3), of Directive 2014/49/EU as a credit balance which results from funds left in an account or from temporary situations deriving from normal banking transactions and which a credit institution is required to repay under the legal and contractual conditions applicable, including a fixed-term deposit and a savings deposit, but excluding a credit balance where: (a) its existence can only be proven by a financial instrument as defined in article 4(17) of Directive 2004/39/EC of the European Parliament and of the Council, unless it is a savings product which is evidenced by a certificate of deposit made out to a named person and which exists in a Member State on 2 July 2014; (b) its principal is not repayable at par; (c) its principal is only repayable at par under a particular guarantee or agreement provided by the credit institution or a third party.

46 **chukkerCoin Assessment**. The chukkerCoin does not represent a credit balance which a credit institution would be required to repay. Therefore, the chukkerCoin does not qualify as a deposit.

2.4   No Structured Deposits

47 The notion of structured deposit is defined in article 4 (1) (43) of MiFiD II, as a deposit as defined in article 2 (1) (3) of Directive 2014/49/EU, which is fully repayable at maturity on terms under which interest or a premium will be paid or is at risk, according to a formula involving factors such as: (a) an index or combination of indices, excluding variable rate deposits whose return is directly linked to an interest rate index such as Euribor or Libor; (b) a financial instrument or combination of financial instruments; (c) a commodity or combination of commodities or other physical or non-physical non-fungible assets; or (d) a foreign exchange rate or combination of foreign exchange rate.

48 **chukkerCoin Assessment**. As stated above under 2.3, the chukkerCoin does not qualify as a deposit. Therefore, it further cannot qualify as a structured deposit.

2.5   No Funds

49 The notion of funds is defined at article 4 (25) of Directive (EU) 2015/2366, as banknotes and coins, scriptural money or electronic money as defined in article 2 (2) of Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC[44]. Electronic money is defined as electronically, including magnetically, stored monetary value as represented by a claim on the issuer which is issued on receipt of funds for the purpose of making payment transactions as defined in point 5 of Article 4 of Directive 2007/64/EC, and which is accepted by a natural or legal person other than the electronic money issuer (article 2 (2) of Directive 2009/110/EC).

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[44]   Electronic money is defined as magnetically, stored monetary value as represented by a claim on the issuer which is issued on receipt of funds for the purpose of making payment transactions.

50 **chukkerCoin Assessment**. chukkerCoin is neither a banknote nor a coin. Furthermore, chukkerCoin can merely be used to pay Listing Fees to the Company (i.e. issuer) to list goods and services on the Company's Marketplace (see Section III.2). chukkerCoin is not intended to be used to make payments to third parties and does not represent a claim on the issuer which is issued to make payment transactions and is accepted by third parties accepted by third parties. Hence, chukkerCoin neither qualifies as scriptural money nor as electronic money (see also Section 4.1.1). Consequently, chukkerCoin does not qualify as funds.

2.6   No Securitization Positions

51 According to article 2 (19) of the Regulation (EU) 2017/2402, a securitization position means an exposure to a securitization.

52 Pursuant to article 2 (1), of Regulation (EU) 2017 / 2402, a securitization means a transaction or scheme, whereby the credit risk associated with an exposure or a pool of exposures is tranched, having all of the following characteristics: (a) payments in the transaction or scheme are dependent upon the performance of the exposure or of the pool of exposures; (b) the subordination of tranches determines the distribution of losses during the ongoing life of the transaction or scheme; (c) the transaction or scheme does not create exposures which possess all of the characteristics listed in article 147 (8) of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012.

53 **chukkerCoin Assessment**. The chukkerCoin has no connection with credit risk exposure. Therefore, the chukkerCoin does not qualify as a securitization position.

2.7   No Non-Life or Life Insurance Products or Reinsurance or Retrocession Contracts

54 The Directive Solvency II lists the non-life or life insurance products falling within the classes of insurance in Annexes I and II. Reinsurance and retrocession contracts are referred to Solvency II.

55 **chukkerCoin Assessment**. The chukkerCoin has no connection with insurance or reinsurance. Therefore, the chukkerCoin does not qualify as a non-life or life insurance product or reinsurance and retrocession contracts.

2.8   No Pension Products

56 Article 2 (4) (f) of MiCA provides that a crypto-asset that qualifies as a pension product that, under national law, is recognized as having the primary purpose of providing the investor with an income in retirement and that entitles the investor to certain benefit, is not subject to MiCA.

57   **chukkerCoin Assessment**. The chukkerCoin has no connection with the retirement of its holders and their respective pension schemes. Therefore, the chukkerCoin does not qualify as a pension product.

2.9   No Occupational Pension Schemes

58   Article 2 (4) (g) of MiCA provides that a crypto-asset that qualifies as an officially recognized occupational pension schemes falling within the scope of IORPs, does not fall within the scope of MiCA.

59   **chukkerCoin Assessment**. The chukkerCoin has no connection with the retirement of its holders and their respective pension schemes. Therefore, the chukkerCoin does not qualify as an official occupational pension scheme.

2.10   No Individual Pension Products

60   Article 2 (4) (h) of MiCA provides that a crypto-asset qualifying as an individual pension product for which a financial contribution from the employer is required by national law and where the employer or the employee has no choice as to the pension product or provider, remains outside the scope of MiCA.

61   **chukkerCoin Assessment**. The chukkerCoin has no connection with the retirement of its holders and their respective pension schemes. Therefore, the chukkerCoin does not qualify as an individual pension product.

2.11   No Pan-European Pension Products

62   According to article 2 (2) PEPP, a crypto-asset qualifies as a pan-European Personal Pension Product, if it is a long-term savings personal pension product, which is provided by a financial undertaking eligible according to article 6 (1) under a PEPP contract, and subscribed to by a PEPP saver, or by an independent PEPP savers Company on behalf of its members, in view of retirement, and which has no or strictly limited possibility for early redemption and is registered in accordance with the PEEP.

63   **chukkerCoin Assessment**. The chukkerCoin has no connection with the retirement of its holders and their respective pension schemes. Therefore, the chukkerCoin does not qualify as a pan-European personal pension product.

2.12   No Social Security Schemes

64   Under article 2 (4) (j) of MiCA, a crypto asset that qualifies as a social security scheme, covered by the Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, and the Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems, does not fall within the scope of MiCA.

65 **chukkerCoin Assessment**. The chukkerCoin has no connection with the retirement of its holders and their respective social security schemes. Therefore, the chukkerCoin does not qualify as a social security scheme.

2.13   Conclusion on the Applicability of MiCA

66 As outlined above in Sections 2.1 and **Fehler! Verweisquelle konnte nicht gefunden werden.**, and as summarized in the table below, the chukkerCoin does not qualify as a financial instrument, as it does not fall within the scope of any of the financial instruments listed in Annex I, Section C of MiFID II, nor does it qualify as any of the other Excluded Crypto-Assets. Consequently, the chukkerCoin also cannot be classified as a hybrid Crypto-Asset and is not subject to any of the MiCA Alternative Legislation.

67 Therefore, MiCA is not excluded, and the chukkerCoin is to be qualified based on MiCA's categorization of Crypto-Assets.

Excluded Crypto-Assets	
NFT	No
Financial Instruments (Transferable Security, Money Market Instrument, Unit of Collective Investment Undertaking, Derivative Contract, Emission Allowance)	No
Deposits	No
Structured Deposits	No
Funds	No
Securitization Positions	No
Non-Life or Life Insurance Products or Reinsurance or Retrocession Contracts	No
Pension Products	No
Occupational Pension Schemes	No
Individual Pension Products	No
Pan-European Pension Products	No
Social Security Schemes	No

3.   Token Qualification under MiCA

3.1   MiCA Categorization

4.   MiCA Crypto-Assets Classification

68 MiCA classifies Crypto-Assets into the following three types, which should be distinguished from one another and are subject to different requirements depending on the risks they pose:

1.   **E-Money Token**: Crypto-Asset that purports to maintain a stable value by referencing the value of one official currency[45]. The function of such Crypto-Assets is very similar to the function of electronic money as defined in Directive 2009/110/EC (Section IV.2.5). Like electronic money, such Crypto-Assets are

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[45]   MiCA Art. 3 (1)(7).

electronic surrogates for coins and banknotes and are likely to be used for payments ("**E-Money Tokens**" or "**EMT**").

2. **Asset-Referenced Token**: Crypto-Asset that is not an electronic money token and that purports to maintain a stable value by referencing another value or right or a combination thereof, including one or more official currencies[46] ("**Asset-Referenced Token**" or "**ART**").

3. **Crypto-Assets other than EMT or ART**: a catch all category that covers all other Crypto-Assets such as cryptocurrencies and utility tokens, provided that they are not excluded ("**Other Crypto-Assets**").

69 In addition, MiCA lays down a few specific rules for "**Utility Tokens**" which are defined as a type of crypto-asset which is only intended to provide access to a good or a service supplied by the issuer of that token or are required to interact with a DLT's ecosystem, i.e. it facilitates practical/functional utilization within a DLT-based ecosystem.[47]

70 Although MiCA does not explicitly define the term stablecoin, it is generally acknowledged that E-Money Tokens and Asset-Referenced Tokens jointly refer to stablecoins. Furthermore, both categories are typically intended to function as means of payment[48].

4.1.1   No E-Money Token

71 As described in Section III.2, the chukkerCoin is neither intended nor marketed as a means of payment. Furthermore, the chukkerCoin incorporates no value stabilization mechanism by linking its value to the value of one official currency.

72 Consequently, the chukkerCoin does not qualify as a E-Money Token.

4.1.2   No Asset-Referenced Token

73 According to Section III.2, the chukkerCoin is neither intended nor marketed as a means of payment. Furthermore, the chukkerCoin incorporates no value stabilization mechanism by linking its value to that a basket of assets such a crypto-assets, multiple official currencies, etc.

74 Consequently, the chukkerCoin does not qualify as an Asset-Referenced Token.

4.1.3   Other Crypto-Asset and Utility Token

75 Since chukkerCoin qualifies as a Crypto-Asset under MiCA (see Section IV.1) and neither qualifies as an E-Money Token (see Section IV.4.1.1) nor as an Asset-Referenced Token (see Section IV.4.1.2) it qualifies as an Other Crypto Asset.

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[46]   MiCA Art. 3 (1)(6).
[47]   MiCA Art. 3 (1)(9), Consultation Section 5.4, margin 63 and Section 3.3 in Section 6.3 Annex II, margin 131.
[48]   MiCA, Preamble, margins 18, 61 and 62.

76 Since chukkerCoin can merely be used to pay Listing Fees to the Company (i.e. issuer) to list goods and services on the Company's Marketplace (see Section III.2) it is only intended to provide access to a good or a service supplied by the issuer of that token. Consequently, chukkerCoin also qualifies as a Utility Token.

4.1.4   No Hybrid Token

77 According to Annex III, Section 2.3 of the Guidelines, hybrid tokens refer to Crypto-Assets that encompass elements from diverse classifications, embodying a composite of characteristics typically associated with distinct types of crypto-assets (e.g. means of payment, utility-type and investment-type).

78 As detailed in Sections 4.1.1 and 4.1.2, the chukkerCoin only entails one functionality, facilitating the access to the utilities of the Marketplace. As the chukkerCoin does not encompass different functionalities that could be associated to different types of Crypto-Asset, the chukkerCoin does not qualify as a hybrid token.

4.2   Conclusion Token Qualification

79 Based on the foregoing analysis, we conclude that the chukkerCoin qualifies as a Crypto-Asset other than Asset-Referenced Tokens or an E-Money Tokens, and more specifically as a Utility Token under MiCA. Furthermore, it does not qualify as a financial instrument as defined by MiFID II, as any other Excluded Crypto-Asset, as an Asset-Referenced Token or as an E-Money Token.

V.   Legal Qualifications

80 This Memorandum is subject to the following qualifications:

- This Memorandum may only be relied on by the original addressee.

- The analysis and conclusions in this Memorandum are based on our understanding of the facts regarding the project and the information that was provided to us to date. If there are changes in the project and/or how it is structured, offered, or marketed in the future, or in how MiCA and MiCA Alternative Legislation are applied on blockchain-based assets, this could affect our analysis and conclusion.

- For this Memorandum, we have not conducted any due diligence or similar investigations regarding factual statements. This Memorandum is strictly limited to an analysis of the circumstances as set forth herein and does not address matters of fact.

- Crypto-Assets and distributed-ledger networks are still new. Existing laws and regulations, various governmental and regulatory bodies, including legislative and executive bodies, in the European Union (including the EEA) and in other countries may adopt new laws and regulations, or new interpretations of existing

laws and regulations may be issued by such bodies or the judiciary, which may adversely impact the potential of Crypto-Assets and distributed-ledger networks as a whole and the legal feasibility of projects as well as associated Crypto-Assets as described in this Memorandum. It cannot be excluded that the interpretation by ESMA as well as local financial market authorities of EU Member States changes in the future.

- As of December 30, 2024, MiCA has become officially applicable. However, its practical implementation remains in flux and subject to ongoing developments. Current interpretations rely on existing legal doctrine, guidance from ESMA, and available commentaries. At present, there is no case law, established enforcement practices, or comprehensive national implementation across EU Member States. As courts and regulatory bodies begin to interpret and enforce MiCA's provisions, its practical implications are likely to evolve. This Memorandum reflects our understanding based on the sources available as of the date of writing. Accordingly, the interpretations and legal reasoning contained herein may not align with future case law or administrative practices as MiCA continues to mature. This Memorandum may not be quoted or referred to in any public document or filed with any governmental agency without our prior written consent.

- The analysis and conclusions in this Memorandum are based on our current understanding and interpretation of MiCA and do not consider the applicability or the effect of the laws of any other jurisdiction than the European Union to or on the matters covered herein.

- This Memorandum is limited to the matters expressly stated herein and no qualifications are to be inferred or may be implied beyond the qualification expressly set forth herein.

- This Memorandum shall be governed by and construed in accordance with material Swiss law and the Courts of Zurich, Venue 1, shall have exclusive jurisdiction in case of any dispute in respect to this Memorandum.

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