

## ETALONIUM MODL TOKENS - THE HOWEY TEST

The Howey Test is the standard methodology, put in place by the U.S. Supreme Court, to determine whether an instrument qualifies as an "investment contract" for the purposes of the Securities Act. From the perspective of the Howey Test, the main question is whether or not cryptocurrency (crypto token, blockchain token) investors are participating in a speculative enterprise, and if so, if the profits those investors are hoping for are entirely dependent upon the work of a third party.

Elements of Howey Test regarding cryptocurrencies (crypto tokens): Element 1 – «Investment of money»; Element 2 – «Common enterprise»; Element 3 – «Expectation of profit» (predominantly from efforts of others). All three elements of test must be met in order for a token to be a security.

### ELEMENT 1: INVESTMENT OF MONEY

Is there an investment of money?

Etalonium MODL tokens (hereinafter – “**MODL tokens**” or “**MODL token**”) are sold for value. Tokens which are sold in a crowdsale (for value), at any time, regardless of whether sold for fiat or digital currency (or anything else of value) involve an investment of money.

**The MODL token sale would constitute an investment of money.**

**ELEMENT 1 IS VERY LIKELY TO BE SATISFIED**

### ELEMENT 2: COMMON ENTERPRISE

What is the timing of the sale?

The timing of the MODL token sale is at the stage of “operational test network”. If there is a functioning network there is **less likely to be a common enterprise** where the profits arise from the efforts of others. The Etalonium team already has a detailed white paper and a deployed working test network before doing a crowdsale.

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

There is a possibility of varying returns between MODL token holders, based on their participation or use of the network. If token 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**.

The MODL token has a range of functions within the Etalonium ecosystem. Accordingly, returns may differ depending on how and to what extent the token holder uses the functions assigned to the token within the ecosystem, as well as how active and what it serves when using the Etalonium platform.

The MODL token has the following functions (tasks) inside the Etalonium ecosystem: the MODL token allows to get early access to the Etalonium platform; the MODL token can be transformed into the inner coin of the Etalonium platform; using the MODL token (it's inner coin equivalent) is the only way to use high-level functionality of the Etalonium platform and to get access to unique elements of the Etalonium platform; the MODL token performs other functions aimed at encouraging and rewarding active users of the Etalonium ecosystem.

**These combined factors are less likely to result in a common enterprise.**

## **ELEMENT 2 IS UNLIKELY TO BE SATISFIED**

### **ELEMENT 3: EXPECTATION OF PROFIT**

(predominantly from efforts of others)

**Does token represent any rights for participation in any legal entity?**

Tokens which give, or purport to give, traditional equity, debt or other investor rights are almost certainly securities. If one or more of the following characteristics apply, the token is almost certainly a security, notwithstanding the results of the other elements:

- a. Ownership or equity interest in a legal entity, including a general partnership.
- b. Entitlement to a share of profits and/or losses, or assets and/or liabilities.
- c. Gives holder status as a creditor or lender.
- d. A claim in bankruptcy as equity interest holder or creditor.
- e. A right to repayment of purchase price and/or payment of interest.

**The MODL token does not have the listed characteristics, accordingly the MODL token is less likely to be a security.**

**What function does the token have?**

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**A token which has a specific function that is only available to token holders is more likely to be purchased in order to access that function and less likely to be purchased with an expectation of profit.**

**ELEMENT 3 IS UNLIKELY TO BE SATISFIED**

**IN SUMMARY, WITH REGARD TO THE RESULTS OF THE HOWEY TEST, IT SHOULD BE NOTED THAT A TOKEN WILL ONLY BE A SECURITY IF IT SATISFIES ALL THREE ELEMENTS. SO THE MODL TOKEN IS UNLIKELY TO BE CONSIDERED A SECURITY ACCORDING TO THE TEST.**