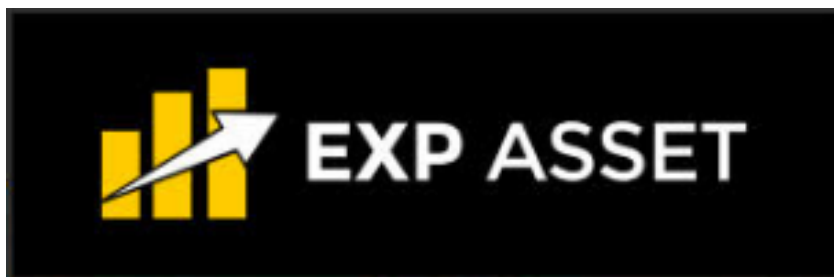


LEGAL OPINION

(PART OF AUDIT)

**CONCERNING THE LEGALITY OF SALES OF THE EDUCATIONAL TRAINING IN REGARD TO
TRADING IN CAPITAL MARKETS.
(FOREX/CRYPTOCURRENCIES)**



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Wroclaw, 20th of July 2017.

Important Disclaimer: This document is a translation of various Polish Acts of Parliament, Regulations and other legislation and meaning of its provisions into the English language, and as such is a closest parallel and does not constitute an official translation and the translator cannot be held responsible for any inaccuracy or omission in the translation. The text should be used for information purposes only and appropriate legal advice should be sought as and when appropriate.

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INTRODUCTION

I. LEGAL REGULATIONS

- 1) The Act of 18 July 2002 on Providing Services by Electronic Means, is hereinafter referred to as the USUDE. [PL: Ustawa z dnia 18 lipca 2002 r. o świadczeniu usług drogą elektroniczną (t. jednolity Dz.U.2013.1422), dalej jako u.ś.u.d.e.]
- 2) The Act of 29 July 2005 on Trading in Financial Instrument, is hereinafter referred to as the UOIF. [PL: Ustawa z dnia 29 lipca 2005 r. **o obrocie instrumentami finansowymi** (Dz.U., Nr 1636, 2016, tj. z dnia 7 lipca 2016 r.), dalej jako *u.o.i.f.*]
- 3) The Act of 19 September 2011 on Payment Services, is hereinafter referred to as the UUP. [PL: Ustawa z dnia 19 sierpnia 2011 r. **o usługach płatniczych** (Dz.U. Nr 1572, 2016, tj. z dnia 29 września 2016 r.), dalej jako *u.u.p.*]
[From translator: There are three further amendments to this Act]¹

II. DOCUMENTS AND SOURCE MATERIALS

- 1) Company website:
<http://expasset.com/>
- 2) EXP ASSET Ltd Terms and Conditions thereby incorporated on company website:
<http://expasset.com/page/show/rules>
- 3) EXP ASSET Ltd presentation website:
(<http://expasset.com/presentation/pl/790/top>).

III. AUDIT FRAMEWORK

The scope of this Audit solely applies to a verification of the company methods of conducting a business activities and the framework for the offered services and its compliance with an applicable legislation and a compliance with any other additional legal requirements. The verification of the company conduct of business is therefore evaluated in the context of enforceable regulatory requirements, in particular with a new technologies law and regulations, as well as in the light of a criminal liability. This Audit rigorously supervises and monitors compliance with the following matters of law:

- 1) Personal data protection;

¹ Polish Law Journal:

<http://dziennikustaw.gov.pl/Wyszukiwanie/tabid/114/Title/ustawa%20uslugach%20platniczych/Default.aspx>

- 2) Consumer rights;
- 3) Doing business online;
- 4) Legitimacy of providing training on trading in the financial instruments.
- 5) Prospects of paying profits for the service users.

The legal analysis of the applicability of above legal matters forms a part of this Audit and will therefore be presented in the Audit's final findings. In particular the Audit analysed and presented its findings on providing services by an electronic means and the legitimacy of providing training on trading in financial instruments.

IV. MATTERS OF SPECIAL INTEREST

- In compliance with the restrictions imposed by the Act on Trading in Financial Instruments, the question is whether the service supplier is allowed to deliver the service: to sell the access to the training as well as to create the legitimate rights to share the profits created from the delivery of this type of a service?

I: DESCRIPTION OF THE SERVICE

1. General information and range of service

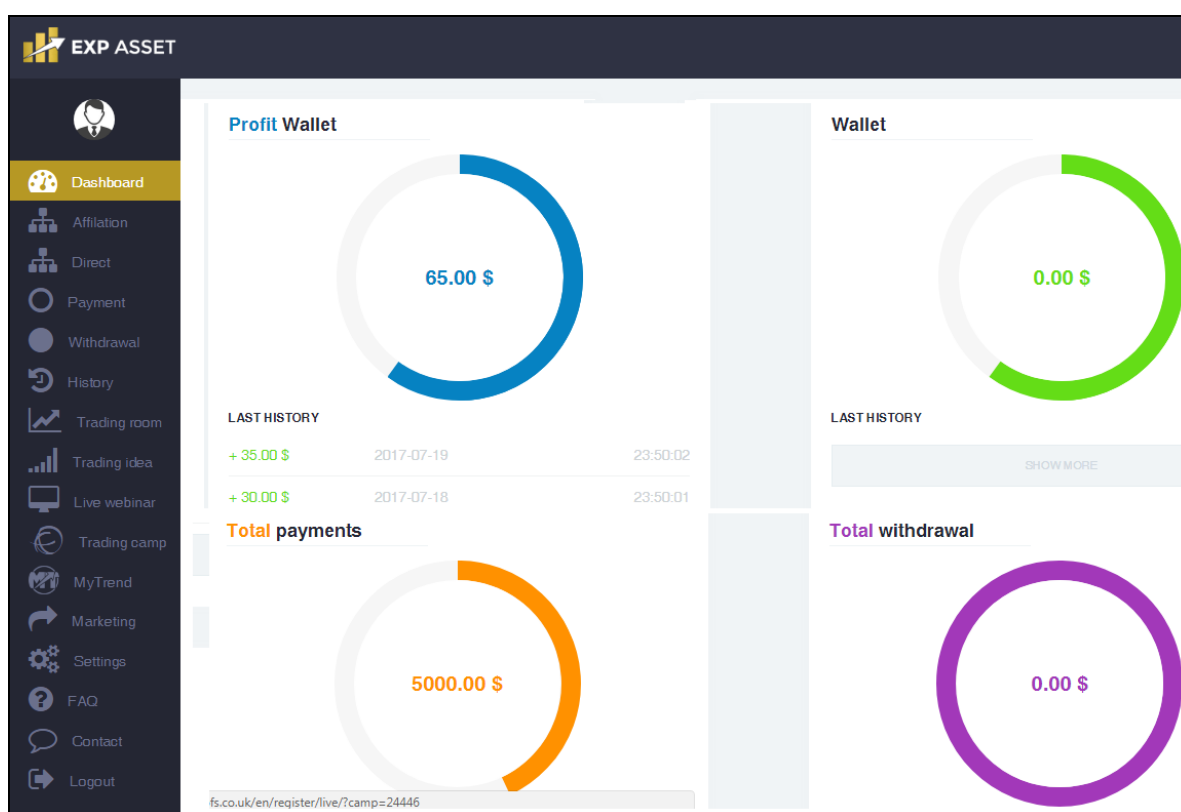
At the point of registration with the EXP ASSET Ltd, the service user gains the access to the platform where information on training and investments are provided. Thereby, the service user can use the services provided for him. The main subjects of the service are:

- 1) Live Trading Room;
- 2) Trading Idea: the access to the publication is in the .pdf format, and it demonstrates the possible scenarios for two chosen currencies, indexes or goods or commodities.
- 3) Live Webinar: one hour long an online training (webinars);
- 4) Trading Camp.

The framework of the training is made of the following modules information:

- 1) Investments in capital markets and in foreign exchange;
- 2) Investments in cryptocurrencies markets;
- 3) Investments in startup businesses within the IT sector.
- 4) Arbitration in cryptocuriencies markets.

The registration in the service is free of charge and the service user is under no legal obligation to compulsory purchase any of the services offered by the provider. Under the headline 'user panel' the user has an access to his Wallet, which clearly displays the profits he is making within the service, as well as the amount of the deposits and the withdrawals.



The EXP ASSET offers 120 days long, a fee charged access to an online services located at the ww.services website, with the purchase option for an additional Premium Packages. The arrangements between the user and the service provider (purchase of the goods and the services, withdrawal of financial gain, premium and bonuses) are made in the bitcoin cryptocurrency.

The service user gain access to paid services upon accepting the designed product:

Product	The service user receives	Product price range	Calculation examples
Premium 1	<ul style="list-style-type: none"> • Access to the platform Live Trading Room* 	100 – 499\$	See example
Premium 2	<ul style="list-style-type: none"> • Access to the platform Live Trading Room* • One per day Trade Idea** 	500 – 999\$	See example
Premium 3	<ul style="list-style-type: none"> • Access to the platform Live Trading Room* • One per day Trade Idea** • Educational product: webinars 	1000 – 4999\$	See example
Premium 4	<ul style="list-style-type: none"> • Access to the platform Live Trading Room* • One per day Trade Idea** • Educational product: webinars • One per year participation in the TRADING CAMP*** 	5000 – 999 999\$	See example
Premium 5	<ul style="list-style-type: none"> • Access to the platform Live Trading Room* • One per day Trade Idea** • Educational product: webinars • One per year participation in the TRADING CAMP*** 	Above 1mln \$	Individual calculation

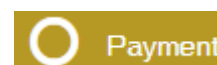
It is a vital and essential part of the service that the service user accumulates the gain from the product: the gain formula is calculated on the basis of the purchase of the training within the framework of the platform and a subsequent further sales of such trainings, the gain accumulated by his traders, and by other ways of increasing the gain as suggested by the service provider. According to the information available on the EXP ASSET website, the average daily gain is 1%.

Product price range example Premium after 120 days		
Average daily reward 1%		
1 st Purchase of the product	500\$	600\$
2 nd Purchase of the product	600\$	720\$
3 rd Purchase of the product	720\$	864\$
The total amount of the premium after 360 days: 864\$		

2. Deposits and withdrawals

The American Dollar \$ currency rate is being used exclusively for the purpose of financial assessment and is then offset against the USD/BTC rate. The user does not make the deposits and the withdrawals in the American Dollar \$ currency, therefore there is no legitimacy for classifying this type of transactions as trading in traditional monetary means.

When the service user intends to join the platform and therefore intends to make a deposit, the option 'payment' will appear in the panel on the screen.



The minimum payment of the deposit is \$100 (one hundred American Dollars), however this does not mean, that the service user has or is allowed to make the financial transactions in that amount.

The minimum payment is \$100. This type of payment transactions are free.

0.00 \$	Pay Now
---------	---------

From the above demonstration it is clear that the USB/BTC rate is used exclusively for purpose of calculating the amount of cryptocurrency, which the service user is compelled to transfer to the Wallet in order to top up his account to use the service. After this operation is made, the service provider validates the merits of this transaction and the funds are transferred to the Wallet.

Wallet Address	BTC Amount	Make a deposit before	Confirmations
31[REDACTED]	0.041890000000000000BTC	2017-07-23 14:10:23	0

3. Live Trading Room

Within the Service User option, the service user gains an exclusive access to the trader's screen, which itself displays the trades made on the markets for the Exp Asset. The service user also views on the screen the precise analysis and the indication of when the transaction is being open and closed. This option is available for the service user from Monday to Friday from 10:30 to 14:00. [From translator: the text does not specify whether the 10:30 is 22:30 or 10:30 am GMT].



4. Trading Idea

In the early hours of every single working day [from translator: the text does not specify what an early hours mean and whether the working days are considered to be from Monday to Friday] the service user has access to the PDF documents published on the website.:

💡 Trading Idea 20.07.2017 - USDCHF – key long-term support	DONWLOAD
💡 Trading Idea 19.07.2017 - DAX - head and shoulders pattern	DONWLOAD
💡 Trading Idea 18.07.2017 - EURAUD - simple correction	DONWLOAD
💡 Trading Idea 17.07.2017 - CADJPY - inverted head and shoulders	DONWLOAD
💡 Trading Idea 14.07.2017 - USDJPY – waiting for breakout	DONWLOAD
💡 Trading Idea 13.07.2017 - EURGBP - bearish engulfing pattern	DONWLOAD
💡 Trading Idea 12.07.2017 - DAX – Elliott wave pattern	DONWLOAD
💡 Trading Idea 11.07.2017 - EURUSD – triangle pattern	DONWLOAD

The PDF document evaluates various scenarios for the chosen currencies exchange pair, index or goods or commodities. This is so called ‘idea/prediction’ scenario, of what can happen on the market that day.



5. Trading Camp

An access to this option of the service is available after the notification form was submitted by the service user and when the service user will purchase minimum the product Premium nr 4.

Trading Camp

Name	Date of birth
Nationality	Street name
Home number	Poste code
City	Country
Email	Phone number

Sent

6. MetaTrader 4

Apart from the services and the products available on the platform, the service user has an option to purchase a licence to the program MetaTrader 4, which contain the funds gained by the service provider, allowing for the withdrawal from the purchased trainings and the right to profit sharing plan.

[From translator: the text below is a translation of the writing in the graphic design below]

The program was tested in the environment of the MetaTrader4 build 950 Windows 7. In the lower window there are indicators created as a standard to this function. The main part shows the graphic diagrams supporting the decision making process. The right click on the mouse on the lower diagram will bring the access window. There are four alerts for the service user so called 'interfejs' which inform the end service user about any potential signals of an entrance. The data log will be sent to the service user mobile phone accompanied with the sound, sound on the computer, the alert window and a simple entry. The analysis of closed lines is stored in the whole code and is not painted at all. The algorithm of the extreme value is build straight and sustainable and has nothing in common with the zigzag.

The introduction window is divided into 5 parts:

1. Signals
2. Actual, first and second setting of the time frame
3. Common options

The indicator used two series of the buffer for the data storage of the chart for the lower oscillator. The graphic objects of the main part have no connection with the buffers and their value cannot be returned by the program.

[From translator: the text being translated here is the writing below the screen]

Press the right click on the mouse to gain the access to the introduction window.

Program został przetestowany w środowisku MetaTrader 4 build 950 Windows 7. W dolnym oknie znajdują się wskaźniki wykonane standardowo w funkcji. Podczas gdy w głównej części widać obiekty graficzne wspomagające proces podejmowania decyzji. Okno wejściowe można wywołać prawym przyciskiem myszy na dolnym wykresie linii. Istnieją cztery alerty interfejsu użytkownika w celu poinformowania użytkownika końcowego o potencjalnych sygnałach wejściowych. Wydarzenia zostaną przekazane użytkownikowi przez telefon komórkowy z dźwiękiem, dźwiękiem w komputerze, oknem alertów i prostym dziennikiem. Reguła analizy tylko zamkniętych kresek jest przechowywana w całym kodzie, a w ogóle nie jest malowana. Algorytm wartości ekstremalnych jest budowany prosto i wydajnie i nie ma nic wspólnego z zygakiem.



Jak zadzwonić do okna wprowadzania - Kliknij prawym przyciskiem myszy.

Okno wejściowe podzielone jest na 5 części:

1. Sygnały
2. Aktualne, pierwsze i drugie ustawienie ramki czasowej
3. Wspólne opcje

Wskaźnik wykorzystuje dwie serie buforów do przechowywania danych wykresu oscylatora dolnego. Obiekty graficzne części głównej nie mają powiązanych z nimi buforów, a ich wartości nie mogą być zwracane przez program.

7. Partnership program

Apart from the service described above within the framework of providing training, the service provider is offering the partnership program in order to promote and distribute the products and the platform services. The program is based on the system MLM 'binary' according to the following rules:

- 1) All service users are permitted to acquire other service users for the promotion and distribution of the products and the service.
- 2) For the creation and management of the sales structures and the care of the new users the original service user, who created the structure receives a commission for the revenue of the created sale structure according to the marketing plan.
- 3) Commission is calculated from the turnover based on the points and are paid in the amount of 10% after accounting the difference between the weaker and stronger group.
- 4) Commissions are paid from the weaker group.
- 5) To receive the commission the qualified persons (qualification depends from the presence of minimum two active persons, each in one group).
- 6) All provisions from the marketing plan are paid out within 24 hrs.

The method of settling the accounts for the structure is shown below:

[From translator: the text written in the left top corner side of the diagram]

pv - internal unit for the account settlement EXP ASSET

1pv=1\$

[From translator: the text written in the left middle side of the diagram]

LEFT GROUP

The turnover of the left group 1000pv

[From translator: the text written below the left middle side of the diagram]

WEAK GROUP

$10\% \times 1000pv = 100\$$

[From translator: the text written in the right side of the diagram]

RIGHT GROUP

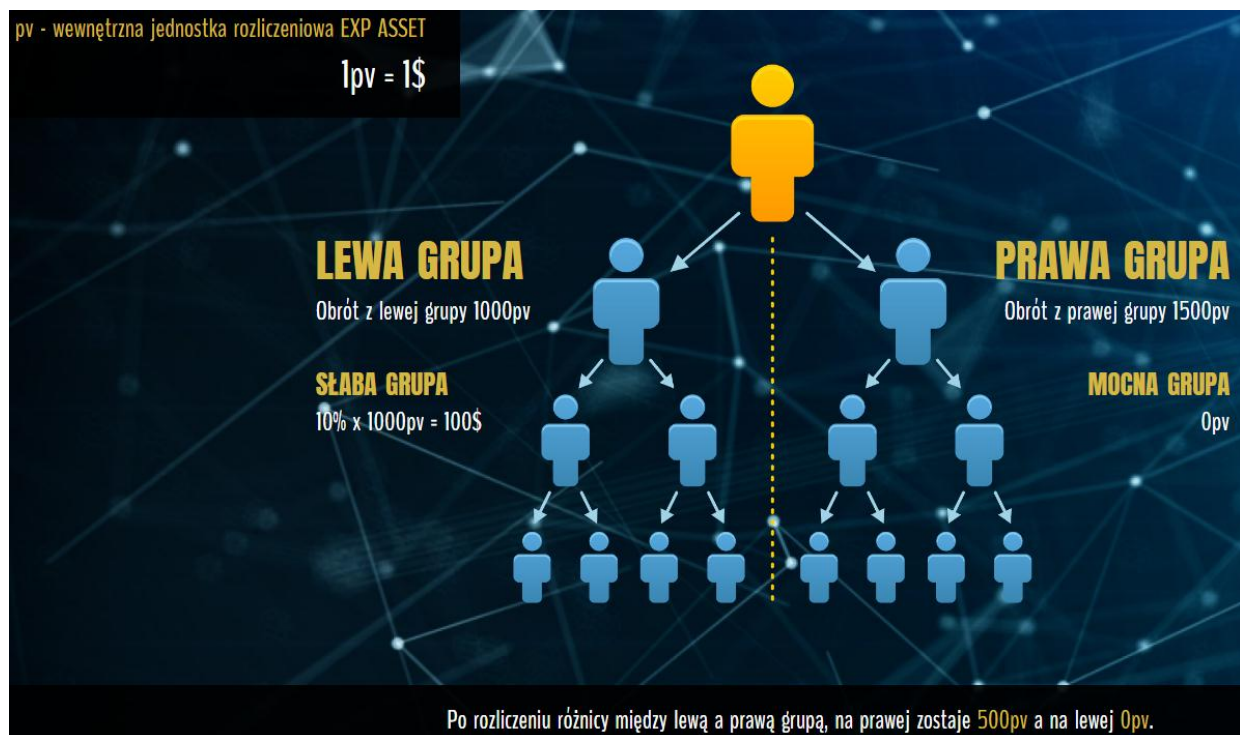
The turnover of the right group 1500pv

STRONG GROUP

0pv

[From translator: The text written at the bottom of the diagram]

After calculating the difference between the left and the right group, the right equals to 500pv and the left equals to 0pv.



the monetary instruments and to answer the question of whether the cryptocurrency, a virtual currency is defined or can be defined as a monetary instrument?

It is legitimate to evaluate the legacy of trading in virtual currencies in compliance with Art. 3 of the UUP which itself names various types of regulated payment services. Applicability of this Article to the BITCOIN currency (or any other) is restricted due to regulations in Art. 5 and Art. 6 u.u.p in accordance with the meaning of the Art.5, para 3 u.u.p of the Act:

3.(28) The regulations of the paras I-III and para IX are directly applicable to the service payments made in following currencies: Euro, Polish Zloty or/and the currencies of any other member state of the EU, with exceptions of the Art. 59ia – 59iii, which are only applicable to service payments made in Polish currency that is Polish Zloty. The regulations defined in the Art 14a–14c, Art, 20b, Art. 32b-32e and the Art. 59ij-59is are applicable to the services made in all currencies.

In accordance with above cited Articles it is right to state, that their applicability cannot be considered in regard to the virtual currencies, because the cryptocurrencies are not the currencies of the EU member states.

For that reason, the service provider is therefore entitled to accept the payments in the BITCOIN currency and the rules defined in the payment services are not either directly or indirectly applicable. Moreover, even if to consider a partial applicability of the stipulated doctrines, that is to apply the part of the regulations (namely regulation defined in Art 14a-14c), even then the EXP ASSET cannot be defined as a legitimate issuer of the monetary instrument, neither as a legitimate issuer of the virtual money, nor it is right to define the EXP ASSET as the acquirer, that is the settlement agent. It is right to argue, that the provisions of the service payments regulations, as defined in the Act, do not impose any types of restrictions on the service provider.

Following the above line of reasoning, namely that the cryptocurrencies are not classified as a financial instrument, there is no need for further consideration in regard to applicability of the provisions of the Act on Trading in Financial Instruments, inclusive of brokering of such trading. This point alone, that the EXP ASSET by performing its business activities cannot be directly defined as an intermediary and/or broker, has a valid legal argument based on the facts, that the service user is purchasing a training in addition to the right for profits. The service offered by the service supplier/provider is not an alternative type of trading, because the act of the trading, which is the core subject matter of the training, is effectively conducted by the third parties, who by no legal means are contractually bound with the EXP ASSET, and therefore they are not a party to the contract between the service user and a service provider.

The judgment of the Polish Administrative Court in Warsaw dated 6th of March 2014, the court ruling nr III SA/WA 2358/13, LEX nr 1581172, decided that this type of the

services although indirectly may be capable of being defined as a derivative activity related to the financial instruments, however this argument alone, does not give a legitimate right to state, that this type of business activity as a fact is a type, a key component of carrying out typical financial activity with the use of commonly recognized financial instruments (the sole and exclusive component, a core subject matter in carrying out this business activity as intended by the service provider is to provide access to the electronic platform together with related services).

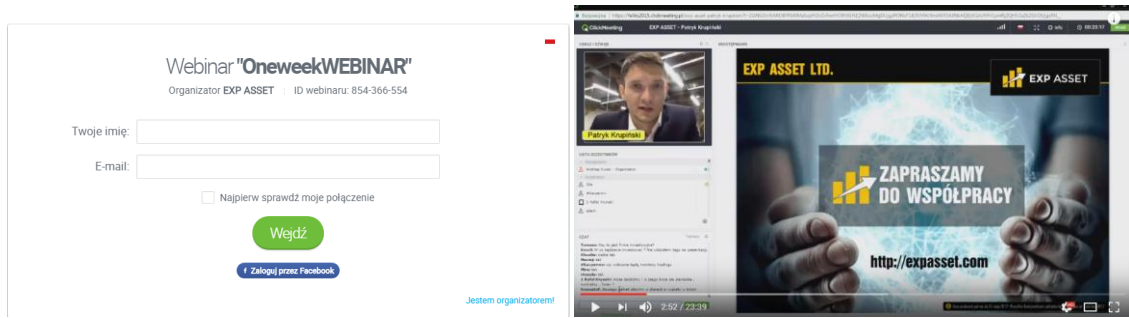
Due to the fact that there is no law regulating and defining a virtual currency as a financial instrument (and in the absence of any significant judgments one may presume that the ruling on this matter is not to be delivered any time soon if not at all) the corporate trading in such currency will not be capable to be regulated and controlled by the laws of the UOIF. Analogically, mere the act of conducting this business activity in conjunction with intermediating in a virtual currencies trading, this act alone in itself does not impose a legal requirement of being regulated by the UOIF, as per se it is not a regulated activity in comparison to conducting defined and regulated brokerage activities (<http://bitcoin.pl/o-bitcoinie/bitcoin-a-polskie-prawo#Regulacja>).

2. Legal requirement and the sales of the educational training

The services provided by the electronic means are the services made by the use of the Internet or electronic network, their delivery - due to their nature – is fundamentally automated, they are done with the minimum interference by the human, and delivery of such services therefore is unachievable without the implementation of the information technology. The judgment of the European Council (EU) NR 282/2011 dated 15th March 2011 defines the services that are recognized as an electronic services, and their taxation is regulated by the Directive 2006/112/WE , with regards to the Value Added Tax for the members of the European Union (Dz. U. U. E L 77/1).

Without any doubt, the sale of the training is a service provided by the electronic means. The access to this service is located at the service user log panel and requires from the service user to log in to the service with their name and their electronic email address:

[From translator: Left window: third paragraph reads Your name, sixth paragraph reads enter; right windows at the very middle reads We are looking forward to do business with you]



The Article 3b of the USUDE states, that there are separate regulations that define when the freedom of providing services by electronic means may be restricted: health protection; defence; national security and public security are one of the reasons to justify imposition of such restriction. In order to support implementation of the Art 3b of the USUDE the Bill of the Parliament nr 889 dated 30th of June 2008 - proposal for a new law, which has changed the current Act regulating the services by electronic means in that within current legal system of Poland there is no other method of invoking this Article, other than under the criminal law, and that is in the circumstances where the tools of the criminal activity (for example computer, server or disc) may be confiscated or taken away on the ground/s of committing a criminal offence or during the criminal investigation process. J. Gołaczynski in 'Commercial transactions and online agreements'² [From translator: the original title of the book is: 'Umowy elektroniczne w obrocie gospodarczym'] stated, that the restrictions imposed by the virtue of the Art.3b of the USUDE in accordance with Art 3 Sec 4 of the EU Directive nr 2000/31/WE cannot be discriminatory, and must be proportionate to the subject matter of the protected interest that is the order, health or public security or for the protection of the consumer.

There are no regulations under current laws that make it an offence for the EXP ASSET to carry out its business activities by selling the training and rewarding with the profit the service users accordingly their acquired right.

The contract between the parties is therefore electronically created online (electronic contract) and as such is regulated by the Art 535 k.c and the contract is therefore legally binding in accordance with the rules of the offer and acceptance and intentions to create a legal relations and there is an incorporation of terms (art. 353[1] k.c.)

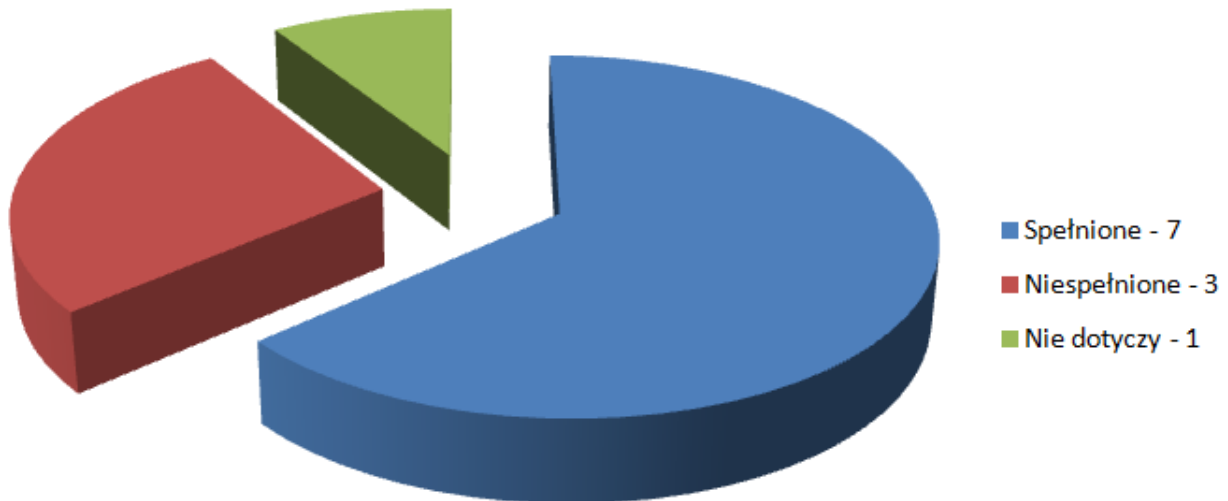
Since there is no provision in the Act on Trading in Financial Instruments to pay taxation, neither there is any provision prohibiting payment of the profits in comparison

² J. Gołaczynski, 'Umowy elektroniczne w obrocie gospodarczym', Difin publishing, 2005, p.231.

to taxation of the regulated by the laws commercial partnerships and companies, there is no infringement of law. On 24th of January 2014 the Supreme Court of Poland delivered a judgment nr V CSK 207/16, LEX 2255336 on applicability and interpretation of the Art 353[1] k.c: in the situation where there is no law, however there is a legal contractual relationship, the legal rights and obligations of the parties will be assessed accordingly to the principle of the offer and acceptance, parties intentions to create legal relations, and the terms and conditions therefore agreed upon, in accordance with the interpretation of the Art 65 k.c.

For the EXP ASSET to be legally defined as the electronic service provider the Audit identified the following provisions in the USUDE:

Duty	Law	Complied	comments
Contact	Art. 5 ust. 2 pkt 1	Yes	<i>Compliant</i> <i>The service contact/support details is support@exp-asset.com (also available in terms and conditions para 5.3)</i>
Registration details	Art. 5 ust. 2 pkt 2	Yes	<i>Compliant</i> <i>The details of the company registration are: EXP ASSET Ltd Craven House 40-44 Uxbridge Road, Ealing, London, United Kingdom, W5 2B</i>
Licence number	Art. 5 ust. 3	N/A	<i>Not Applicable</i> <i>There is no licence or authorization required for this type of business activity</i>
Risk disclosure statement	Art. 6 pkt 1	No	<i>There is no risk disclosure statement</i> <i>Recommendation to adopt standard risk disclosure statement</i>
Cookie policy	Art. 6 pkt 2	No	<i>No information regarding cookie policy</i>
Data Protection	Art. 7 pkt 1 lit a	Yes	<i>Compliant</i>
Website development	Art. 7 pkt 1 lit b	Yes	<i>Compliant</i> <i>The name of the service provider is clearly displayed (EXP ASSET), the registration is confirmed by email</i>
Withdrawal from the contract	Art. 7 pkt 2	No	<i>There is no option on how to end the contact.</i>
Terms and conditions	Art. 8 ust. 1 pkt 1	Yes	<i>The terms and condition is a subject to separate verification</i>
Terms and conditions	Art. 8 ust. 1 pkt 2	Yes	<i>Compliant</i> <i>Recommendation that the link to the terms and conditions to be clearly displayed during the process of registration</i>
Terms of sale/service and complaints	Art. 8 ust. 3 pkt 1-4	yYes	<i>Compliant</i>



[From translator: text on the right side of the graphic design reads:

Blue colour: Compliant – 7

Red colour: Not compliant – 3

Green colour: Not applicable – 1]

The service provider, as discussed above, by no means is under a legal obligation to be regulated under the provisions of the Act on Trading in Financial Instruments³ and for that reason cannot be defined as so called investment company, which is defined in the art. 3 pkt 33 u.ś.u.d.e:

33) Investment company – means the brokerage house, the banks conducting their business capacity of brokerage, the foreign investment company conducting brokerage activities in the territory of the Republic of Poland and foreign legal entity that have a registered address in the country belonging to the OECD⁴ or/and to the WTO⁵, conducting the brokerage activities in the territory of the Republic of Poland;

It must be said, that the business activities of the financial consultancy are reserved for the brokerage houses, there are certain risks associated with this type of business activities for the potential client. For that reasons the EXP ASSET although is not required under legislation to have a risk disclosure statement for the service users, it does inform the service users:

³The Act of 29 July 2005 on Trading in Financial Instrument.

[PL: Ustawa z dnia 29 lipca 2005 r. o obrocie instrumentami finansowymi (Dz.U., Nr 1636, 2016, tj. z dnia 7 lipca 2016 r.), dalej jako u.o.i.f.],

⁴ [From translator: OECD means the Organisation for Economic Co-operation and Development].

⁵ [From translator: WTO means the World Trade Organisation].

[From translator: text in Polish language reads: Warning about the risk: The services provided by the EXPASSET company cannot be regarded as an investment consultancy, neither there is no legal undertaking with associated companies for the duration of the purchase, the sale or during the time of holding specific securities, financial products or financial instruments, that are related to carrying out such investment. The company is not registered as an investment consultancy or the brokerage house.]



EXP ASSET

Ostrzeżenie o ryzyku: Usługi świadczone przez firmę EXPASSET nie powinny być traktowane jako porady inwestycyjne ani zalecenia firm lub firm powiązanych w zakresie zakupu, sprzedaży lub przechowywania określonych zabezpieczeń, produktów finansowych lub instrumentów, które mają związek z realizacją takiej inwestycji.

Spółka nie jest zarejestrowana jako doradca inwestycyjny lub firma brokerska.



EXP ASSET

CHART OF THE DAY

USDCHF – key long-term support

Risk warning: Investments to EXP ASSET carries a high level of risk, and may not be suitable for all investors. There is a possibility that you may sustain a loss equal to or greater than your entire investment. Therefore, you should not invest or risk money that you cannot afford to lose. You should ensure you understand all of the risks. Before using EXP ASSET LTD. services please acknowledge the risks associated with online investments.

The content of this Website must not be construed as personal advice. EXP ASSET Ltd recommends you seek advice from an independent financial advisor.

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Nonetheless, if the EXP ASSET is to be deemed an investment company, and the trade conducted through the use of the cryptocurrencies is to be deemed a trade conducted by the use of financial instruments (although this is clearly not the case here judging on the type of a service and in accordance with the applicable laws) according to the information available from the Polish Financial Supervisory Commission [From translator: in Polish language: Komisja Nadzoru Finansowego] the matter of whether the services are capable of being defined as an investment consultancy services will depend from individual circumstances, judged on case by case basis, the facts of the case and the

overall evaluation of its business activities. Mere the fact, that there is an agreement to provide an advice (or training) is not an indication of providing an investment advice.

The circumstances indicating such behavior are present when the company (or any legal entity acting on behalf of a company or by a person acting under its authority whether express or implied) accepts an undertaking to provide an advice on financial instruments in accordance with the art. 76 of the Act Trading in Financial Instruments.⁶

For that article to be in force there must be some element of the investment behavior related to financial instruments. The phrase 'defined financial instrument' cannot be evaluated only in the context of finding a defined name of a financial instrument associated with this activity (share, bond). To rely on such narrow interpretation would be unjustified and without a meaning. The word 'defined' therefore shall be evaluated in the context of giving an advice about financial instruments, and shall explain the type of the financial instrument that advice is related to.

The Polish Financial Supervisory Commission [PL Komisja Nadzoru Finansowego] has delivered its position por. Decision of the KNF dated 3rd of September 2013, chairman Mr Andrzej Jakubiak, DRK/WRM/485/7/7/69/2013/MK/PT) that allowing the service user to access the service with information, without verification of his profile, allowing him therefore the access to commonly available recommendations published by the service provider is not capable of being defined as investment consultancy. The trainings published by the EXP ASSET are in the form of recommendations, and there are not addressed to a particular individual.

The text of the Financial Supervisory Commission position referred to above (the text marked in the square box):

[From translator: above the text to be translated in the square box there is a name of the Financial Supervisory Commission in Polish – KOMISJA NADZORU FINANSOWEGO, the name of the chairman – Andrzej Jakubiak, and is dated 3rd of the September 2013, signed in Warsaw].

Therefore the act made by the investment company that is to allow the service user without the verification of his profile, to access information services (the internet website) thus enabling all and/or commonly recommended publications of the investment company to be viewed, cannot be capable of being defined as an investment consulting company.



KOMISJA NADZORU FINANSOWEGO

Przewodniczący
Andrzej Jakubiak

Warszawa, dnia 3 września 2013 r.

DRK/WRM/485/7/ 14 /69/2013/MK/PT

Kolejnym zagadnieniem, wymagającym wyjaśnienia w świetle uwag zgłaszanych Urzędowi Komisji, jest kwestia świadczenia usługi doradztwa inwestycyjnego w ramach dostępu do informacji zamieszczonych na stronach internetowych wymagających procesu uwierzytelniania i autoryzacji użytkownika.

Okoliczność ta (tzn. dostęp do sugestii zachowań inwestycyjnych zamieszczanych w serwisach o ograniczonym dostępie) może implikować potencjalnie wystąpienie usługi doradztwa inwestycyjnego. Powyższa kwalifikacja wystąpi, gdy klient ma dostęp po zalogowaniu, do serwisu informacyjnego firmy inwestycyjnej, niezależnie od jego profilu, ale rekomendacje, które są mu dostępne zostały wyselekcjonowane pod kątem jego wiedzy, doświadczenia, celów inwestycyjnych i poziomu absorpcji ryzyka. Analogiczna kwalifikacja wystąpi, gdy klient – wskutek udzielanych przez niego informacji – będzie profilowany przez firmę inwestycyjną pod kątem wiedzy i doświadczenia oraz celów inwestycyjnych na etapie procesu autoryzacji a następnie uzyska on dostęp do informacji lub rekomendacji, które korespondują z jego profilem inwestycyjnym.

Jednakże UKNF pragnie podkreślić, iż o ile zalogowanie do serwisu informacyjnego firmy inwestycyjnej nie wiąże się z weryfikacją wiedzy i doświadczenia klienta, jego składników majątkowych i innych kryteriów charakteryzujących jego profil inwestycyjny, to wówczas działanie takie zasadniczo nie powinno być klasyfikowane jako usługa doradztwa inwestycyjnego. Tym samym, działanie firmy inwestycyjnej polegające na udzieleniu dostępu klientowi do serwisu informacyjnego (strony internetowej) bez weryfikacji jego profilu zapewniającego dostęp do ogólnych, wszystkich rekomendacji wydanych przez firmę inwestycyjną nie byłoby objęte reżimem doradztwa inwestycyjnego.

III: FINAL PROVISIONS

- ❖ The service provider is not an investment company within the meaning of the act on trading in the financial instruments;
- ❖ The legal obligations of the provisions contained in the act on payments are therefore not applicable to the transaction made between the service provider and the service user, neither its provisions do not imposed any restrictions on such transaction carried out in the BITCOIN cryptocurrency.
- ❖ The service provider is offering to the service user within the framework of the platform, the access to purchase training and the right to generated profits.
- ❖ The service users by joining the platform make a legally binding agreement for the electronically delivered service, within the meaning of the regulated sale

pursuant to the art 535 k.c, in accordance with the rule the freedom of contract (art. 353[1] k.c);

- ❖ The rule of the freedom of the contract does not contradicts the Act, neither it contradicts the nature of natural relationship nor it does contradicts the rules of social co-existence by providing the service of such type (purchase of the bundle by paying in cryptocurrency offset against the ratio of USB/BTC);
- ❖ The service provider shall deliver changes in the information that is available for the service users (especially in the terms and conditions) and to state in a plain language, that the premium for the purchase of the bundle is the same premium of potential profits;
- ❖ At this time the service provider is not in compliance with all requirements contained in the provisions of the USUDE (which are shown in the table and are illustrated in the graphic design), however a non-compliance with this provisions is not equal to infringement of law;
- ❖ Even when to declare that the EXP ASSET is the investment company, and the trade in cryptocurrency is defined as a part of trading in financial instruments (that is not understood by the business activity and from the legal regulations), the position of the Polish Financial Supervisory Commission is that the actions of such company, namely allowing the service user to access the service and to view commonly available recommendations published by the service provider is not capable of being defined as an investment consultancy.
- ❖ The service provider as a matter of warning informs the service users that his service cannot be treated as an investment advice, neither the recommendations of companies or companies associated within the framework of purchase, sell or holding certain securities, financial products or financial instruments, which shall be read as a fair and clear information about offered services.

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