

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE
COMMISSION

SECURITIES ACT OF 1933
Release No. 10755 / February 19, 2020

ADMINISTRATIVE PROCEEDING
File No. 3-19702

In the Matter of

Enigma MPC,

Respondent.

**ORDER INSTITUTING CEASE-AND-
DESIST PROCEEDINGS PURSUANT TO
SECTION 8A OF THE SECURITIES ACT
OF 1933, MAKING FINDINGS, AND
IMPOSING PENALTIES AND A CEASE-
AND-DESIST ORDER**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 (“Securities Act”) against Enigma MPC (“Enigma” or “Respondent”).

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (“Offer”) that the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over it and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant To Section 8A of the Securities Act of 1933, Making Findings, And Imposing Penalties And A Cease-And-Desist Order (“Order”), as set forth below.

III.

On the basis of this Order and Respondent’s Offer, the Commission finds that:

Summary

Enigma MPC (“Enigma”), a data encryption startup, raised approximately \$45 million by selling 75 million digital tokens (“ENG Tokens”) in an Initial Coin Offering (“ICO”) in the summer and fall of 2017. Enigma and its promoters told investors that Enigma would use the funds raised in the ICO to develop a digital asset trade-testing platform (the “Catalyst

Application”) and to build a data marketplace for cryptocurrency-related data. Ultimately, as Enigma told investors, Enigma also planned to use ICO funds to develop a marketplace for other forms of data as well (the “Enigma DataMarketplace” or “DataMarketplace”).

Based on the facts and circumstances set forth below, ENG Tokens were offered and sold as investment contracts, and therefore securities, pursuant to *SEC v. W.J. Howey Co.*, 328 U.S. 293 (1946) and its progeny, including the cases discussed by the Commission in its *Report of Investigation Pursuant to Section 21(a) of the Securities Exchange Act of 1934: The DAO* (Exchange Act Re. No. 81207) (July 25, 2017). A purchaser in the offering of ENG Tokens would have had a reasonable expectation of obtaining a future profit based on Enigma’s representations and efforts to build its business, including through its use of the ICO fund proceeds to develop its DataMarketplace. Enigma violated Sections 5(a) and 5(c) of the Securities Act by offering and selling these securities without having a registration statement filed or in effect with the Commission or qualifying for exemption from registration with the Commission.

Respondent

Enigma MPC, formerly known as Newton Security Labs, Inc., is a privately owned Delaware corporation based in Israel and San Francisco, California. Neither Enigma nor its securities are registered with the Commission in any capacity. Enigma issued the ENG Tokens to investors through its wholly owned Cayman Islands-based subsidiary, Enigma ENG International Ltd.

Facts

1. Enigma is a digital technology startup company established in 2015 to facilitate the sharing and analysis of encrypted data without decrypting it. Enigma marketed its technological and cryptographic method (referred to as the “Enigma Protocol”) to end users in healthcare and finance fields as a way to securely share data across silos. Beginning in late May 2017, Enigma began to shift its business model. Enigma announced that it eventually planned to utilize the Enigma Protocol to develop a two-part business: (a) a platform for digital asset traders to test trading strategies (which Enigma called “Catalyst”); and (b) a data marketplace to buy and sell market data sets relating to digital assets (which Enigma called the “Enigma DataMarketplace”). Enigma referred to Catalyst and the Enigma DataMarketplace collectively as the “Catalyst Network” or the “Enigma Network.”

2. In order to raise money which funded the development of the Catalyst Network and the Enigma Protocol, Enigma offered and sold ENG Tokens in an initial coin offering, or ICO.

Enigma Promoted Its Securities Offering

3. Between approximately June and the beginning of September 2017, Enigma promoted its ENG Token ICO on websites it maintained and through blog posts, social media posts, online videos, and online discussion boards. In its promotional materials, Enigma

highlighted that the company was founded by “an MIT-bred team of experts, backed by top-tier investors.” They publicized the names of various “Enigma advisors” and described their advisors’ experience in the digital asset and business world, and posted a written document Enigma called a “whitepaper” that described the technology Enigma proposed to build.

4. Enigma paid promoters and others to tout Enigma as a good investment opportunity. Among other things, Enigma engaged in a so-called “bounty campaign,” offering ENG Tokens to third parties in exchange for promotion of the Enigma ICO and Catalyst through social media, blogging, or for translating Enigma promotional materials into other languages. Enigma also sought to generate more interest in its ENG Tokens by working to have the token traded on secondary market digital asset trading platforms. Enigma also told prospective ENG Token investors that it was engaged in such efforts.

Terms of Enigma’s Initial Coin Offering

5. Enigma launched its ICO in June 2017, and it continued through September 11, 2017. In what it referred to as the “Pre-Sale” portion of its offering, Enigma sold ENG Tokens in exchange for U.S. dollars, Bitcoin, or Ether through a purchase agreement Enigma called a “Simple Agreement for Future Tokens” or “SAFT.” These ENG Tokens were sold at an approximate 10% discount relative to the ENG Tokens later sold. The ENG Tokens sold through the SAFTs were supposed to be sold only to accredited investors. As part of the same offering, Enigma also conducted a one-day “Crowd Sale” on September 11, 2017 and sold tokens to any and all general public investors. Ultimately, Enigma also filed a Form D with the Commission for what it stated were “sale and issuance of rights to receive ENG tokens in the future” via SAFTs. In total, Enigma sold 75 million ENG Tokens to almost 6,000 people for approximately \$45 million (comprised of digital assets such as Bitcoin or Ether).

The ENG Token Purchasers Invested Money So That Enigma Could Fund Its Business

6. In the course of promoting its ICO, Enigma represented that it was seeking financing to build its products. For example, to its prospective “pre-sale” investors, Enigma represented that “a significant portion of the amount raised under the SAFTs will be used to fund the Company’s build-out of a decentralized data marketplace for financial crypto data (the ‘Catalyst Network’).” Enigma also represented to the general public that the “use of funds” raised in the ICO would be for product and technology development, for blockchain research, marketing, operation, and for legal and administrative costs. The ENG Token holders’ money – the approximately \$45 million invested in Enigma by token holders who contributed digital assets of value during the ICO – was pooled and funded the development of the Catalyst Network and the Enigma Protocol.

The ENG Token Purchasers Had a Reasonable Expectation of Profits and Relied on the Efforts of Enigma for a Return on Their Investments

7. ENG Tokens derived their value – and therefore, the ENG Token purchasers could reasonably expect a return on their investments – from the efforts of Enigma to develop its business. As Enigma represented to the pre-sale investors who purchased ENG Tokens in

SAFTs, “[t]he Purchaser enters into this SAFT with the expectation that he, she or it, as the case may be, will profit upon the successful development and Network Launch arising from the efforts of the Company and its employees to develop and market the Catalyst Network and the Network Launch and related sale of Tokens and the Token Sale.” And, as Enigma represented to the general public the day before it delivered the tokens to investors, “If successful, the Enigma protocol could become the cornerstone of the new decentralized web . . . Achieving this vision is a long term endeavor that will require us to venture far into the frontiers of computer science. Given our background and prior work in the space, our ties to academia, our dedicated partners and investors, and the funding contributed by our community, we believe Enigma can meet these ambitious goals.”

8. During the offering, Enigma had launched an “alpha” version of its “Catalyst Application,” its platform for digital asset traders to test trading strategies, with free preloaded datasets that Enigma provided. However, there was no use for ENG Tokens on the Catalyst Application at the time of the sales. Ultimately, as Enigma told investors and the general public, it planned to build what it called the “Enigma DataMarketplace,” where users could spend ENG Tokens to purchase datasets of all kinds, including for use on the Catalyst Application. Enigma described itself as “an ambitious project with a long-term horizon” and noted that it intended to use the funds raised from the offering “to push towards building a protocol [the Enigma DataMarketplace] that could capture the long tail of all kinds of data.”

9. On October 11, 2017, Enigma delivered the ENG Tokens to purchasers. The ENG Tokens had no consumptive use with any Enigma product at the time of the delivery. The ENG Tokens could not be utilized by the purchasers as a medium of exchange for any Enigma products. Rather, as Enigma represented on its blog and to the press, funds raised through the ICO would be used for, among other things, future product and technology development.

Enigma Failed to Register the Offer and Sale of Its Securities

10. Enigma’s offer and sale of ENG Tokens was not registered as a securities offering with the Commission, nor did Enigma’s offer and sale of ENG Tokens satisfy any valid exemption from registration.

Violations

1. As a result of the conduct described above, Enigma violated Section 5(a) of the Securities Act, which states that unless a registration statement is in effect as to a security, it shall be unlawful for any person, directly or indirectly, to make use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell such security through the use or medium of any prospectus or otherwise; or to carry or cause to be carried through the mails or in interstate commerce, by any means or instruments of transportation, any such security for the purpose of sale or for delivery after sale.

2. Also as a result of the conduct described above, Enigma violated Section 5(c) of the Securities Act, which states that it shall be unlawful for any person, directly or indirectly, to make use of any means or instruments of transportation or communication in interstate commerce

or of the mails to offer to sell or offer to buy through the use or medium of any prospectus or otherwise any security, unless a registration statement has been filed as to such security.

Undertakings

Respondent makes the following undertakings:

1. Within fourteen (14) days from the date of this Order, Respondent will issue a press release (the “Press Release”), in a form not objected to by Commission staff, notifying the public of this Order and containing a link to the Order. At the same time, Respondent will prominently post the Press Release, link to the Order on Enigma’s company website, and maintain it there until the “Claim Form Deadline” (as defined in Paragraph 2.c. below).

2. Subsequently, Respondent will:

- a. Within one hundred twenty (120) days of the date of this Order, file a Form 10 to register under Section 12(g) of the Securities Exchange Act of 1934 (“the 1934 Act Registration”) the ENG Tokens as a class of securities;
- b. Respond promptly and in good faith to any and all comments concerning the 1934 Act Registration issued by the Division of Corporation Finance;
- c. On a date no later than sixty (60) calendar days after the date of the filing of the 1934 Act Registration, or on the date seven (7) days after the 1934 Act Registration becomes effective, whichever date is sooner (the earlier date being the “Effective Date”), distribute by electronic means reasonably designed to notify each potential claimant (“Distribution”), a notice and a claim form (the “Claim Form”), both of which shall be in a form not objected to by Commission staff, and both of which shall include a link to Enigma’s filing page on EDGAR, informing all persons and entities that purchased ENG Tokens from Respondent before and including September 11, 2017, of their potential claims under Section 12(a) of the Securities Act, including the right to sue “to recover the consideration paid for such security with interest thereon, less the amount of any income received thereon, upon the tender of such security, or for damages if [the purchaser] no longer owns the security” and informing purchasers that they may submit a written claim on the Claim Form directly to Respondent at an address indicated on the Claim Form of a purchaser’s assertion of rights under Section 12(a) of the Securities Act, and that such claims must be submitted by a date certain (“Claim Form Deadline”); said Claim Form Deadline shall be the earlier of three (3) months from the date that the Division of Corporation Finance notifies Respondent that the Division’s review of the Form 10 has been concluded or six (6) months from the Effective Date;

- d. Simultaneously with the Distribution of the Claim Form, post the Claim Form on Respondent's company website and maintain it there until the Claim Form Deadline; and
- e. Maintain such 1934 Act Registration and make timely filings of all reports required by Section 13(a) of the Securities Exchange Act of 1934 at least until the later of (1) the Claim Form Deadline; (2) such time as Respondent has filed all reports required for the fiscal year within which the 1934 Act Registration became effective; and (3) such time as Respondent is eligible to terminate its registration pursuant to Rule 12g-4 under the Securities Exchange Act of 1934.

3. Respondent will pay the amount due under Section 12(a) of the Securities Act, if any, to each qualified person or entity that purchased ENG Tokens from Respondent before and including September 11, 2017, and that submitted a written claim to Respondent's address by the Claim Form Deadline using the Claim Form. Within three (3) months from the Claim Form Deadline, Respondent will make all payments it deems to be due and adequately substantiated to purchasers who submitted the Claim Form by the Claim Form Deadline. Respondent may require that a claimant submit additional documentation supporting that the claimant is entitled to receive payment under Section 12(a) of the Securities Act and Paragraph 2 above. Upon receiving such a request, a claimant will have thirty (30) days to provide the requested documentation in writing to the address provided by Respondent. For any claims not paid, Respondent will provide the claimant with a written explanation of the reason for non-payment.

4. Beginning 30 days after the Claim Form Deadline, Respondent will submit to Commission staff a monthly report of the claims received and the claims paid under Paragraph 3 above, including (a) identifying information about each claimant; (b) the amount of each claim; (c) the resolution of each claim, including the amount of each payment; (d) identification of all claims not paid and the reasons for all non-payment of claims; and (e) a list of all complaints received (if any) and the manner in which Respondent addressed each complaint. Respondent will provide Commission staff with any related additional information or documentation reasonably requested by Commission staff, such as documentation submitted by the claimant and documentation supporting Respondent's decision regarding the claim. In response to any objections by Commission staff to Respondent's handling of one or more claims, Respondent will reconsider its decision(s) in light of the objection and will provide a written explanation to Commission staff of its decision following such reconsideration.

5. Within seven (7) months of the Effective Date, Respondent will submit to Commission staff a final report of its handling of all claims received under Paragraph 3 above, including all information listed in Paragraph 4 above (the "Final Report").

6. Respondent will certify, in writing, compliance with the undertakings set forth above within sixty (60) days of their completion. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The certification and supporting material shall be submitted to: John T. Dugan, Associate Regional Director, Division of Enforcement, Securities and Exchange Commission, 33 Arch Street, 24th Floor, Boston,

Massachusetts 02110, or such other person or address (including electronic address) as the Commission staff may identify, with a copy to the Office of Chief Counsel of the Enforcement Division. The Commission staff may make reasonable requests for further evidence of compliance, and Respondent agrees to provide such evidence, as applicable.

7. If Respondent plans to file a Form 15 to terminate its registration pursuant to Rule 12g-4 under the Securities Exchange Act of 1934 on the grounds that the ENG Token no longer constitutes a “class of securities” under Rule 12g-4 because the ENG Token is no longer a “security” under Section 3(a)(10) of the 1934 Act, Respondent will notify the Commission staff at least thirty (30) days prior to such filing. Upon such notification, the Commission staff may make reasonable requests for further information, and Respondent agrees to provide such information, as applicable.

8. Respondent will retain all records and communications relating to the ENG Token Offering for a period of at least one year after the date it submits the certification of compliance as described in Paragraph 6 above, or until such time as otherwise required by law.

9. Respondent may apply to Commission staff for an extension of the deadlines described above before their expiration and, upon a showing of good cause by Respondent, Commission staff may, in its sole discretion, grant such extensions for whatever time period it deems appropriate.

10. In determining whether to accept the Offer, the Commission has considered the Respondent’s cooperation and these undertakings.

IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondent’s Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 8A of the Securities Act, Respondent cease and desist from committing or causing any violations and any future violations of Section 5(a) and (c) of the Securities Act.

B. Respondent shall pay a civil monetary penalty in the amount of \$500,000.00 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(2). If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. § 3717.

Payment must be made in one of the following ways:

- a. Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- b. Respondent may make direct payment from a bank account via Pay.gov

through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or

c. Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Enigma as a Respondent in this proceeding, and the file number of this proceeding; a copy of the cover letter and check or money order must be sent to John T. Dugan, Associate Regional Director, Division of Enforcement, Securities and Exchange Commission, 33 Arch Street, 24th Floor, Boston, Massachusetts 02110, or such other person or address as the Commission staff may provide.

C. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, it shall not argue that it is entitled to, nor shall it benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that it shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

By the Commission.

Vanessa A. Countryman
Secretary