

From: BTS&Partners
To: BRN Metaverse -Seyran Görür
Date: 18 August 2022
Subject: BRN Token—Turkish Capital Market Law Analysis

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1. Introduction

This legal opinion is prepared in order to provide an analysis whether BRN Token could be considered to be “securities” or another capital market instrument under the Turkish Capital Market legislation.

2. BRN Token Project

2.1. The White Paper

It is understood that the White Paper has been made available to the public ([WhitePaper | BRN Token - Builds Future](#)). According to the White Paper BRN Token is created and generated on Binance Smart Chain (BSC) network and supported with Metaverse, GameNFT and Web 3.0.

2.2. Features of BRN Token

Even though, the White Paper does not provide a specific description of the BRN Token, after analyzing the White Paper, the following appear to be the predominant features of the BRN Token:

- BRN Token provides the ability to holders/investors to participate in the battles (games) which takes place within the BRN Game. In other words, Players use BRN Token as a deposit in order to join the game and/or enter different fields of the BRN Game.
- It is used as a rewarding tool for participants of BRN Game.
- It is utilized as medium of exchange (currency) solely valid within the BRN Game

3. Turkish Capital Market Law Analysis of the BRN Token

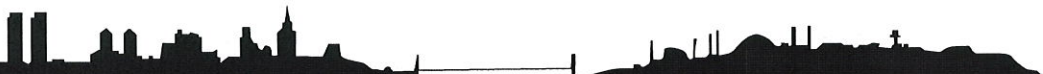
3.1. Current Regulatory Framework for Securities in Turkey

3.1.1. Securities

Under the Capital Market Law numbered 6362 (“CML”), “**securities**” are defined as:

“With the exception of money, cheques, bills of exchange and promissory notes;

- 1) *Shares, other securities similar to shares and depositary receipts related to these shares,*



2) *Debt instruments or debt instruments based on securitized assets and revenues as well as depository receipts related to these securities”*

According to the criteria based on the “securities” definition provided under the previous version of the CML¹, BRN Token could be classified as securities by the Capital Market Board (“CMB”) in case (i) it provides its owner rights such as the status of a shareholder or credit, (ii) it represents a certain value, (iii) it is used as an investment tool, (iv) it brings periodic income to its owner and (v) it is fungible and issued serially with the same form whose terms are determined by the CMB. Although the previous version of the CML is currently repealed, CMB continues to base its assessments onto the aforementioned criteria.

Analysis on BRN Token in the context of the criterions of the CMB:

Criteria	Yes	No	Rationale
<i>“It provides owner rights such as the status of a shareholder or credit”</i>		x	Pursuant to the White Paper BRN Token does not provide any ownership rights in terms of capital markets law. BRN Token is more likely a utility token than a security token as it solely allows players to enter and participate in BRN games. It does not give any voting rights on the BRN Metaverse (or any other company) or right to the receive interest. Hence, this criterion is not met.
<i>“it represents a certain value”</i>	x		BRN Token represents a certain value. While this value may fluctuate in the markets, as a tradable utility token, it holds an intrinsic property of representing a monetary value.
<i>“it is used as an investment tool”</i>		x	BRN Metaverse is planning on distributing its BRN Tokens through a sale, as stipulated in the White Paper. Those sales represent an investment of money. However, BRN Token does not seem to promise an income or a return to the buyers. In order for a token to be considered as an investment tool purchasers must reasonably expect to profit from holding the token. We believe that the statements in the White Paper do not create an expectation that the BRN Token will provide income or a return to the purchaser. Further, White Paper does not include any wording that the BRN Token shall be tradable in the secondary markets. If such statement would have been included, the holders could have a means to realize profits

¹ Capital Markets Law numbered 2499 (annulled on 30.12.2012).



			on an appreciation of value were there to be one and BRN Token may have been considered as an investment tool.
<i>"it brings periodic income to its owner"</i>		x	As far as it is understood from the White Paper BRN Token does not promise periodic income to the holders.
<i>"it is fungible and issued serially with the same form whose terms are determined by the CMB"</i>		x	As BRN Tokens are used as medium of exchange within the BRN Game we believe they are fungible and issued serially with same form, however since their terms are not determined by the CMB we are of the opinion that this criterion is also not fully met.

Therefore, we reckon that it is unlikely that the CMB would classify BRN Token as "securities".

3.1.2. Capital Market Instruments

Definition of securities and our assessment of BRN Token with regards to securities have already been provided above. Hence, this sub-section shall focus on capital market instruments other than securities.

Pursuant to CML "**Capital market instruments**" are defined as;

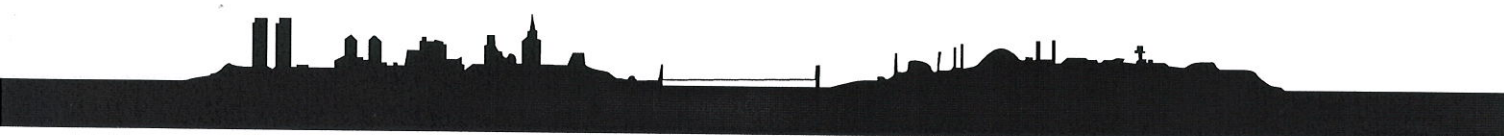
"Securities and derivative instruments as well as other capital market instruments designated in this context by the Board, including investment contracts,

- **CML describes "Derivatives"** as "instruments listed below or other derivative instruments designated in this context by the CMB:

1) Derivative instruments giving the right to buy, sell or exchange securities,

2) Derivative instruments the values of which depend on the price or return of a security; the price or a price change of a foreign currency; an interest rate or a change in the rate; the price or a price change of a precious metal or precious stone; the price or a price change of a commodity; statistics published by institutions deemed appropriate by the Board and changes in them; derivative instruments which provide the transfer of credit risk, which have measurement values such as energy prices and climatic variables and depend on an index level which is formed by these listed items or on changes in this index level; the derivatives of these instruments and derivatives giving the right to interchange the listed underlying assets.

3) Leveraged transactions on foreign exchange and precious metals as well as other assets to be designated by the Board "(e.g. Forex),



Briefly, derivatives are financial instruments that their value is directly connected with the value of another financial asset or good. Without the need of a change in the ownership of an asset, derivatives enable the trade of the right and obligations concerning such asset. The most prominent among derivative instruments are future, forward, option and swap transactions.

This Memo reckons that the features of BRN Token or the business model of BRN Metaverse does not fall under the definition of derivatives.

4. Conclusion

For the reasons discussed above, this memo concludes that the BRN token will most likely be considered as utility token and not a security or any other type of capital market instrument by CMB.

We would like to note that under CML, CMB is entitled to decide what constitutes a capital market law instrument. Hence, it should be kept in mind that CMB has a broad authority to determine whether an asset could be considered as a capital market instrument. However, to this date, CMB's application and interpretations have not gone much far from the aforementioned criteria. Thereby, considering the BRN Token's characteristics, it is highly unlikely that CMB will provide an interpretation different than the given above.

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