

Crypto Rating Council – ETH Scorecard

A. Legal Rating Criteria

Howey score (1-5): **2**

Contingent score (1-5): **N/A**

Platform functionality	Ethereum is a decentralized, open-sourced blockchain that features smart contract functionality. Developers can use Ethereum to build and operate dApps. Ethereum primarily uses Proof of Work consensus, but it has begun to implement Proof of Stake as part of a long-term system upgrade. ETH is the native token of Ethereum. ETH is used as a digital currency, and it powers Ethereum through mining and staking.
Key Considerations	William Hinman, former director of the SEC’s division of corporation finance, has stated that he considers very few digital assets (Bitcoin and Ethereum among them) to be non-securities ¹ .
Prong 1: 100	ETH was sold in a presale.
Prong 2: 240	Changes to ETH price are borne by all holders equally.
Prong 3: 60	Ethereum’s Beacon Chain uses a Proof of Stake system that enables some ETH holders to earn staking rewards. And because Ethereum’s mainnet still uses a Proof of Work system, ETH holders can also earn ETH through mining. ETH functions as a digital currency and secures the Ethereum network. The Ethereum project team has generally avoided making statements that frame ETH as a security or investment opportunity.
Prong 4: 95	<p>The Ethereum project team—especially Vitalik Buterin—is very well known in the cryptocurrency space. Buterin still plays a significant role in shaping the Ethereum network. Also, the Ethereum Foundation actively engages in efforts to encourage broader adoption of Ethereum.</p> <p>The Ethereum network is decentralized. The community can propose changes to the network, and, because changes are made based on consensus, a change could be implemented that the project team does not agree with. Ethereum is used by a material number of people, both by developers and otherwise.</p>
Certain Assumptions	It is unclear whether there have been updates to Ethereum adopted by the network that were not supported by the project team. If there have been, the prong 4 score may decrease. If there have not been, the prong 4 score may increase.

Rating description:

The asset under consideration will be assigned an overall legal score on a scale of 1-5, with 1 signifying a lower risk that the asset would be deemed to be a security, and 5 signifying a higher risk that the asset would be deemed to be a security. That score will be based on an

¹
<https://www.reuters.com/article/us-cryptocurrencies-ether/u-s-sec-official-says-ether-not-a-security-price-surges-idUSKBN1JA30Q>

analysis of the Howey test and the SEC Framework for “Investment Contract” Analysis of Digital Assets and other related factors, as set forth in Attachment A, in addition to any other relevant legal considerations (e.g., the likelihood of the asset being deemed a derivative, the likelihood of the asset being deemed a note, the lack of an opinion/memorandum from outside counsel, etc.) as described below.

If the Howey scaled score is the only relevant consideration, the overall score will be based on the following legend:

Howey score legend:

Rating Scale (1-5): 2

1	3 or more prongs have scores below 100
2	2 prongs have scores below 100 and 2 prongs are 100 or greater
3	1 prong has a score below 100, 3 prongs are 100 or greater and no prong is above 150
3.5	1 prong has a score below 100, 3 prongs are 100 or greater, the sub-100 prong is below 75, and one or more prongs is above 150 but no prong exceeds 200
3.75	1 prong has a score below 100, 3 prongs are 100 or greater, and either (1) the sub-100 prong is 75 or above; or (2) one of the other 3 prongs is 200 or greater
4	All 4 prongs are 100 or greater, but neither Prongs 3 nor 4 is above 150
4.25	All 4 prongs are 100 or greater, and only one (but not both) of Prongs 3 or 4 is above 150
4.5	All 4 prongs are 100 or greater; both Prong 3 and 4 are above 150, or one of Prongs 3 or 4 is above 200
4.75	All 4 prongs are 100 or greater; both Prongs 3 and 4 are above 200, or one of Prongs 3 or 4 (but not both) is above 250

5	All 4 prongs are 100 or greater; both Prongs 3 and 4 are above 250, or one of Prongs 3 or 4 is above 300
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B. Other Securities Analysis

1. **Does the asset have characteristics of other instruments that may be deemed to be securities, such as a note or stock?² For example, does the asset evidence indebtedness to another person? Is the asset identified or marketed as debt? Does the asset confer on the holder a right to payment of interest at a time of stated maturity? Alternatively, has the issuer in fact filed a registration or claimed an exemption to the securities laws?**

When considered in relation to Ethereum’s Proof of Work system, ETH does not have the characteristics of a security. However, ETH used for staking in Ethereum’s new Proof of Stake system may have securities-like features. Namely, the Beacon Chain enables ETH holders to stake ETH and to earn rewards—but the principal stake and ETH can be withdrawn only at the time of a future system upgrade. Some commentators have dubbed Eth2 the “Internet Bond.” Given that Ethereum’s staking function is still in early development, and that information about it is limited, it is difficult to determine to what extent ETH used for staking is comparable to a security.

<https://stex-exchange.medium.com/ethereum-2-0-an-internet-bond-what-you-need-to-know-about-proof-of-stake-f5e74867d310>

2. **If the instrument has the characteristics of a note, does it also have characteristics of judicially enumerated exceptions to notes, or have sufficient “family resemblance” as set forth in Reves to notes that are not considered securities?³**

² Section 3(a)(10) of the Securities Exchange Act defines a “security” to include “any note, stock, treasury stock, security future, security-based swap, bond, debenture, certificate of interest or participation in any profit-sharing agreement or in any oil, gas, or other mineral royalty or lease, any collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting trust certificate, certificate of deposit for a security, any put, call, straddle, option, or privilege on any security, certificate of deposit, or group or index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency, or in general, any instrument commonly known as a “security”; or any certificate of interest or participation in, temporary or interim certificate for, receipt for, or warrant or right to subscribe to or purchase, any of the foregoing” It excludes currency or any note, draft, bill of exchange, or banker’s acceptance which has a maturity at the time of issuance of not exceeding nine months, exclusive of days of grace, or any renewal thereof the maturity of which is likewise limited”. The corresponding definition of a note in the Securities Act does not have the same exclusion for notes with a maturity of less than nine months. See 15 U.S.C. 77b(a)(1). This definition is to be applied unless “the context otherwise requires.” 15 U.S.C. 78c(a); 15 U.S.C. 77b(a)(1).

³ In determining whether a note is sufficiently similar to one of these enumerated categories to be exempt from the securities laws, the Reves test considers (1) the motivation of the buyer and the seller to enter into the transaction, e.g., if the seller’s purpose is to raise money for the general use of a business enterprise or to finance

See above.

C. Derivatives Analysis

1. Does the asset have features resembling a derivative?⁴

No.

2. Does the asset allow counterparties to hedge or speculate on price movements on an asset or index without owning the asset or index outright?

No.

D. Fraud Analysis

1. Does the enterprise and the asset ostensibly have a legitimate purpose?

Yes. Ethereum is a technology that allows users to send cryptocurrency to anyone for a small fee. The Ethereum Virtual Machine functions as a smart contract and dApp programming network.

<https://ethereum.org/en/what-is-ethereum/>

2. Has the asset or issuer ever been the subject of a law enforcement action or regulatory investigation?

No docket or other special search has been conducted, but no material law enforcement or regulatory investigation of or relating to the asset or the issuer has been identified.

substantial investments and the buyer is interested primarily in the profit the note is expected to generate; (2) the "plan of distribution" of the instrument, to determine whether it is an instrument in which there is "common trading for speculation or investment;" (3) the reasonable expectations of the investing public; and (4) whether some factor such as the existence of another regulatory scheme significantly reduces the risk of the instrument, thereby rendering application of the Securities Acts unnecessary. Reves v. Ernst & Young, 494 U.S. 56, 67 (1990).

Those enumerated categories of notes that are not considered securities, as set forth by the United States Court of Appeals for the Second Circuit in two prior decisions, are (1) a note delivered in consumer financing; (2) a note secured by a mortgage on a home; (3) a short-term note secured by a lien on a small business or some of its assets; (4) a note evidencing a "character" loan to a bank customer; (5) short-term notes secured by an assignment of accounts receivable; (6) a note "which simply formalizes an open-account debt incurred in the ordinary course of business (particularly if, as in the case of the customer of a broker, it is collateralized);" or (7) notes evidencing loans by commercial banks for current operations. See Exchange National Bank of Chicago v. Touche Ross & Co., 544 F.2d 1126, 1137 (2d Cir. 1976) (categories 1-6); Chemical Bank v. Arthur Andersen & Co., 726 F.2d 930, 939 (2d Cir. 1984) (adding category 7).

⁴ The definition of a swap (a type of derivative) under the Commodities Exchange Act is broad, and there is a general risk that a motivated regulator could attempt to deem any digital asset to bear some resemblance to a swap. For purposes of this analysis, consider features classically associated with swaps and other derivatives, including but not limited to, the changes in value based on performance of an underlying asset, continuity of payments and existence of settlement and maturity dates.

3. Does the Project Team have experience or expertise related to the enterprise it is developing and the asset to be distributed?

Yes. Vitalik Buterin, Gavin Wood, and Charles Hoskinson, among others, comprised the initial core ETH team. Buterin, a well-known cryptocurrency researcher and programmer, continues to serve on the Ethereum Foundation executive board.

<https://blog.ethereum.org/2014/01/23/ethereum-now-going-public/>

<https://ethereum.foundation/about/board/>

4. Does the design of the blockchain specifically facilitate anonymous transactions, or otherwise obscure the details of their transactions?

No.

Attachment A -- New Asset Fact Sheet

Platform and Functionality

Ethereum is a decentralized system not controlled by any single governing entity. The Ethereum Virtual Machine facilitates dApp and smart contract programming and management, using ETH as its native currency.

Ethereum utilizes a Proof of Work (PoW) consensus mechanism called “ethash,” akin to the PoW mechanism utilized by Bitcoin. ETH is earned as a block reward for miners that participate in the PoW system. The Ethereum Foundation has planned a transition to a Proof of Stake (PoS) consensus mechanism that is currently underway as part of the Eth2 upgrades. The Beacon Chain, which introduces PoS to Ethereum, is live, and ETH holders can earn rewards through staking. ETH holders can become a validator by staking 32 ETH; alternatively, they can join a staking pool. Notably, staked ETH and any rewards earned cannot presently be withdrawn—they are locked up until a future upgrade takes place at a yet-unknown date.

<https://ethereum.org/en/eth2/>

<https://ethereum.org/en/eth2/staking/>

The Beacon Chain is currently separate from the Ethereum mainnet, but it is planned that the mainnet will eventually be merged into the PoS system controlled by the Beacon Chain, at which time the entire Ethereum network will be PoS. Future upgrades will also incorporate sharding, which will spread the network’s load across 64 new chains.

<https://ethereum.org/en/eth2/>

Finally, EIP-1159, an upgrade scheduled for July 2021, incorporates a burning mechanism wherein a Base Fee charged for each transaction and paid in ETH will be burned, thereby reducing the total supply of ETH. This upgrade could cause ETH to become deflationary.

<https://eips.ethereum.org/EIPS/eip-1159#eth-burn-precludes-fixed-supply>

Characterization of Tokens

ETH has utility as the fuel for transactions on the Ethereum Virtual Machine and is required for users to pay small transaction fees intended to reduce spam on the Ethereum blockchain. The ETH subunit, ethergas, is needed by ERC20 tokens to pay to publish their transactions on the Ethereum blockchain.

Statements by the project team have generally been consistent with the position that ETH is intended to be used as a utility token in relation to the Ethereum network:

“The Ethereum network includes its own built-in currency, ether, which serves the dual purpose of providing a primary liquidity layer to allow for efficient exchange between various types of digital assets and, more importantly, of providing a mechanism for paying transaction fees.”

<https://ethereum.org/en/whitepaper/>

“Ethereum was initially described by Vitalik Buterin in late 2013 as a result of his research and work in the Bitcoin community.”

<http://ethdocs.org/en/latest/introduction/history-of-ethereum.html>

“This should be taken as an expanded version of the concept of "dollars" and "cents" or "BTC" and "satoshi". In the near future, we expect "ether" to be used for ordinary transactions, "finney" for microtransactions and "szabo" and "wei" for technical discussions around fees and protocol implementation; the remaining denominations may become useful later and should not be included in clients at this point.”

<https://ethereum.org/en/whitepaper/>

At the launch of the Ether presale, Vitalik Buterin disclaimed in a blogpost that “Ether is a product, NOT a security or investment offering. Ether is simply a token useful for paying transaction fees or building or purchasing decentralized application services on the Ethereum platform; it does not give you voting rights over anything, and we make no guarantees of its future value.” He also stated that “It is very likely that alternative versions of Ethereum (“alt-etherea” or “forks”) will be released as separate blockchains, and these chains will compete against the official Ethereum for value.”

<https://blog.ethereum.org/2014/07/22/launching-the-ether-sale/>

Fundraising

The presale ran from July 22, 2014 to September 2, 2014. The company raised 31,591 bitcoins, worth \$18,439,086 at that time, in exchange for about 60,102,216 ETH. Those who purchased ETH earlier on in the presale received a discount: during the first 14 days, ETH was sold at a rate of 2000 ETH per BTC, and afterwards, the rate linearly declined to 1337 ETH per BTC. The price per token was estimated to be from USD\$0.28 to USD\$0.38.

<http://ethdocs.org/en/latest/introduction/history-of-ethereum.html>

<https://keepingstock.net/overview-ethereum-s-initial-public-sale-563c05e95501>

<https://blog.ethereum.org/2014/07/22/launching-the-ether-sale/>

There was no limit on quantity of ETH to be sold in the presale. According to the project team, “Ether will NOT be usable or transferable until the launch of the genesis block.”

<https://blog.ethereum.org/2014/07/22/launching-the-ether-sale/>

The stated intended use of revenue from the presale was as follows:

- 76.5% for Delivery – Development of Ethereum Platform and Tools
- 13.5% for Delivery – Community Outreach
- 10.0% Cryptocurrency Research Group (CCRG)

<https://web.archive.org/web/20140723210810/https://ethereum.org/pdfs/IntendedUseOfRevenue.pdf>

The terms for the presale stated that “in order to give as many interested parties as possible the opportunity to purchase ETH in the Genesis Sale, EthSuisse will restrict any single entity, person, corporation, or group from controlling more than 12.5% of the total ETH sold by the end of the Genesis Sale. The purpose of this limitation is to ensure broad, global participation in the Genesis Sale.”

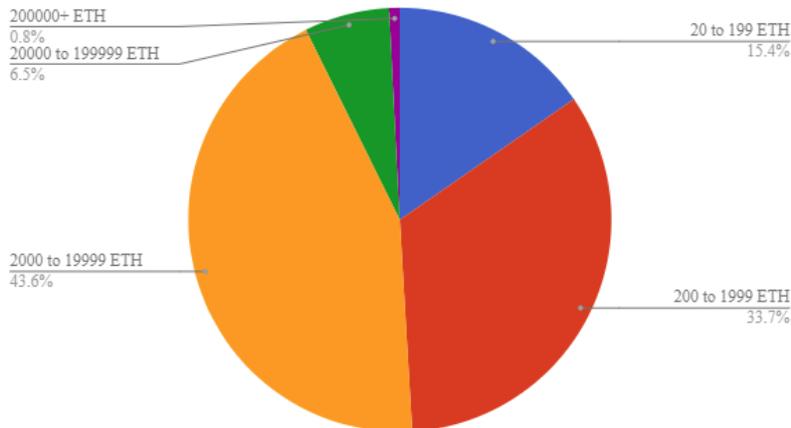
<https://www.cryptocompare.com/media/1383735/pdfs-termsandconditionsoftheethereumgenesisale.pdf>

Over 40% of ETH sold in the initial sale reportedly went to the top 100 purchasers, and the 3 largest purchasers each bought roughly 1 million ETH.

<https://www.theblockcrypto.com/daily/5383/the-ethereum-ico-where-did-all-the-tokens-go>

In the first 2 weeks, about 77% of purchasers bought between 200 to 19,999 ETH each.

Number of ETH purchases by size



“The results of the sale were initially used to pay back mounting legal debts and also for the months of developer effort that had yet to be compensated, and to finance the ongoing development of the Ethereum”

<http://ethdocs.org/en/latest/introduction/history-of-ethereum.html>

Venture Funding

ETH received a number of fundraising rounds starting in 2015.

<https://www.crunchbase.com/organization/ethereum>

Project Development

At the time of presale, the blockchain was not yet operational, and the company stated that the ETH would not be usable until the blockchain was ready. The Ethereum Foundation, a non-profit organization dedicated to supporting Ethereum and related technologies, led development of the network, although decentralized contribution also took place.

Vitalik Buterin stated, prior to the presale, that “You are trusting us to take the bitcoin and use it to develop Ethereum . . . But we hope that after watching our development for six months you have been convinced that we are technically capable of pulling this off.”

<https://www.coindesk.com/ethereum-launches-ether-coin-millions-already-sold>

The blockchain went live on July 30, 2015, and it is currently fully developed, with all key utilities available. ETH may be used on numerous blockchains and applications built on Ethereum.

In June 2016, the DAO (a smart contract running on Ethereum) was hacked due to a vulnerability with the DAO, and 3.6 million of what was known as ETH at the time was taken from accounts in the DAO and moved to another account. After a vote, most of the Ethereum community agreed to implement a hard fork in Ethereum to move the ETH taken to a new smart contract and restore it to the rightful owners. This hard fork is what is now referred to as Ethereum. However, some members of the Ethereum community did not agree with this approach, and they decided to keep using the original unforked version of Ethereum, which is now referred to as Ethereum Classic. The token sale took place in 2014, before the hard fork was implemented.

The Ethereum Foundation continues to encourage development of the Ethereum platform, and it maintains an active Twitter page where it regularly tweets and retweets information about Ethereum.

<https://ethereum.foundation/>

https://twitter.com/ethereum?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eautho
[

Intellectual Property and Changes to the System

Ethereum is open-sourced, and the Project Team claims that it does not own any intellectual property rights in Ethereum. Members of the public can suggest changes to the blockchain, and

these can be implemented without the consent of the Project Team, given adequate decentralized consensus.

<https://ethereum.foundation/philosophy/>

<https://ethereum.org/en/eips/#introduction-to-ethereum-improvement-proposals-eips>

There are thousands of developers building on ETH, and tens of thousands of pull requests and commits on the Ethereum Github page.

<https://github.com/ethereum/go-ethereum/pulls>

Limitations and Cautionary Language

The analysis and framework utilized herein is intended to be used by members (the “Members”) of the Crypto Ratings Council (the “Council”) as a tool to help them evaluate and weight factors that may be relevant to the potential classification of a digital asset under the U.S. federal securities laws, and is prepared for the sole and exclusive use by the Council and its members.

It provides information based on relevant law and legal precedent statements from SEC Staff relating to digital assets, including the SEC’s “Framework for “Investment Contract of Digital Assets” but is not an exhaustive treatment of the legal and regulatory issues relevant to conducting an analysis of whether a product is a security, including an investment contract analysis with respect to digital assets generally, *and does not constitute, and is not a substitute for obtaining, legal advice.* The framework (including the factors considered and the weighting of those factors) has not been endorsed by the SEC or any other governmental authority. Classification of a digital asset as a security is a fact and circumstances determination and no one factor is necessarily dispositive as to whether an asset would be deemed a security. A quantitative ranking may not necessarily be reflective of the likelihood of classification as a security, and should be only considered together with all relevant facts and circumstances.

Moreover, the analysis concerning whether a digital asset is a securities may evolve over time, as the nature of digital assets, applicable precedent, and SEC statements and interpretations change and evolve. Each Member is encouraged to seek legal advice from its own attorneys to obtain legal guidance on these subjects. Neither the Council nor their respective affiliates, directors, officers, employees, security holders, agents and attorneys, are acting in the capacity of attorneys for Members absent a separately documented written engagement agreement with an attorney, and no attorney-client relationship is otherwise established by virtue of the provision of information in the context of this analysis and framework.

Further, the analysis herein is based on a limited review of factual information drawn from publicly available materials regarding the digital assets under evaluation. Due to the disparate location and quantity of information (including white papers, web pages, social media posts, videos, seminars, conferences, marketing materials and other forms of communication) and limits on the accessibility to some sources, not all potentially relevant factual information has necessarily been reviewed as part of the analysis herein, and no independent investigation has been taken to independently confirm information on which it is based. The Members

acknowledge and agree that neither the CRC, its agents, employees and attorneys assume any responsibility for the completeness of the information contained herein. It is possible that if additional facts were known or assumed, or understood facts prove to be incorrect, the analysis would need to be modified to address such changes. In addition, responses to certain items may be subject to different and reasonable conflicting interpretations, even assuming an identical set of facts.

As mentioned, neither this analysis, nor any portion hereof, constitutes an opinion (legal or otherwise), and no representation is made as to its sufficiency for any particular purpose. No person or entity may rely on this analysis for any purpose, as it should not be treated as a substitute for specific legal or other advice concerning individual matters, situations or concerns. Each member acknowledges and agrees to these limitations.

This analysis may be distributed only to Members of the Council. Please note the following disclosures: Members, and their and the Council's respective affiliates, directors, officers, employees, security holders, agents and attorneys transact in digital assets in the ordinary course of business in a variety of capacities including, without limitation, listing digital assets on trading platforms, providing custodial services, investment advice and other functions. The Council, Members of the Council, certain of their and the Council's affiliates, directors, officers, employees, security holders, agents and attorneys of the Council may have existing or future financial, fiduciary, client or other interests in the digital asset subject to this review and affiliated persons of the digital asset subject to this review or have other relationships or interests in the digital assets or affiliated parties. Persons associated with the digital asset in question may also have financial or other interests in the Members and Council's affiliates, directors, officers, employees, security holders, agents and attorneys. In addition, the Council, may in the past have had, and may currently or in the future have, advisory or other relationships relating to the digital asset or related persons. It is possible that these interests could now or in the future constitute conflicting interests, or give rise to conflicting duties. Members acknowledge the existence of such potential interests and conflicts in considering these materials, and accept the materials subject to that acknowledgment.

Finally, the Council and Members, and their respective affiliates, directors, officers, employees, security holders, agents and attorneys, may have or acquire information that may be of interest to other Member and the Council and Members respective affiliates, directors, officers, employees, security holders, agents and attorneys but shall have no obligation to, and agree that they shall not, disclose such information, or the fact that such is in possession of such information, to other Members or the Council, despite contractual restrictions, commercial considerations, fiduciary considerations or the rules of professional responsibility to the contrary. Members acknowledge and consent to this limitation in reviewing these materials.

Attachment B -- Asset scorecard

Rating Scale (1-5): 2

Digital Asset Review Questions		Answers	Howey Prongs				Annotations
			Investment of Money	Common Enterprise	Reasonable Expectation of Profits	Efforts of Others	
1.	Did purchasers contribute fiat or digital currency in exchange for tokens, excluding secondary purchases through a platform which are not from the Project Team ⁵ ? If a Project Team both (i) conducted a substantial pre-mine and (ii) sold pre-mined tokens to fund its operations, indicate “Yes”.	Yes	+100				Ethereum conducted a token sale from July to September 2014. ⁶
		No	0				
		N/A	0				
2.	If the answer to #1 is No, did token holders contribute services or other individual efforts that support the system/network (e.g., proof of work mining) in exchange for tokens?	Yes	+50 ⁷			-20	
		No	0			0	
		N/A	0			0	

⁵ For purposes of this scorecard, “Project Team” refers to the founders, sponsors, promoters, issuer of a token or network, or a foundation or similar entity established to support the token or network. This may include Project Teams that are anonymous, to the extent that they have publicized certain efforts undertaken or not undertaken in relation to developing the platform.

⁶ <https://ethereum.org/en/history/>

⁷ Note that the SEC staff has indicated that a “Yes” answer to this would likely satisfy the “Investment of Money” prong, although there is some uncertainty about this view based on the caselaw.

3.	If the answers to #1 and #2 are No, were token holders required to provide email addresses, KYC information, wallet information or other non-monetary consideration that could have value to the Project Team in exchange for tokens?	Yes	+50 ⁵				
		No	0				
		N/A	0				
4.	If the value of the token is backed by or tied to another asset which is not itself a security (whether fiat or otherwise), is it redeemable on demand 1:1 for that asset? (Answer N/A if not backed by or tied to another asset. Even where the token is redeemable 1:1 for another asset, if the sole purpose of the token is investment or financial return, mark "No.")	Yes	-75		-75		
		No	0		0		
		N/A	0		0		

5.	Do (i) token holders share in increases or decreases in value of the token, or is any increase in value or return related to the asset linked to outcomes for other holders (e.g. realizing gains or losses through secondary market trading or because the value of the token is connected to a pool of assets but not from price fluctuations resulting <i>solely</i> from external market forces such as general inflation or trends of the economy) or (ii) are the fortunes of token holder linked to the success of the Project Team's efforts? ⁸ ,. Restrictions on transfer or inability to transfer outside of a network may be indicative of a "No" answer.	Yes		+100	+20	Changes to ETH price are borne by all holders equally (as is the case for most fungible digital assets which may change in value), and ETH is listed on numerous exchanges. ⁹
		No		0	0	
		N/A		0	0	
6.	Do token holders receive payments or fees in any form as a result of holding the token (e.g., additional tokens, dividends, interest, profit shares, or similar distributions or equivalents, receiving shares of proceeds or revenues made by the token sponsor or based on the performance of a pool of assets, fees paid by others for using the network, or staking rewards, etc.)? For purposes of this question, a Proof of Work system would not be considered a basis for a "Yes" answer unless there were also some form of token payments unrelated to mining rewards.	Yes		+75	+100	Ethereum has long used a Proof of Work system, but it is in the process of transitioning to a Proof of Stake system as part of the Eth2 upgrades. ¹⁰ The Beacon Chain, which introduces proof-of-stake to Ethereum, is live, allowing ETH holders to earn rewards through staking. ¹¹ Notably, though, principal stakes and rewards cannot be withdrawn until future upgrades are deployed

⁸ In the SEC Framework for "Investment Contract" Analysis of Digital Assets, the SEC indicates that it considers Prong 2 to be satisfied where "the fortunes of digital asset purchasers have been linked to each other or to the success of the promoter's efforts." See SEC v. Int'l Loan Network, Inc., 968 F.2d 1304, 1307 (D.C. Cir. 1992).

⁹ <https://ethereum.org/en/get-eth/>

¹⁰ <https://ethereum.org/en/eth2/>

¹¹ <https://ethereum.org/en/eth2/beacon-chain/>

							(i.e., they are locked up for an unknown period of time). ¹² The Beacon Chain is currently separate from the Ethereum mainnet, but it is planned that the mainnet will be merged into the proof-of-stake system controlled by the Beacon Chain. ¹³	
		No		0	0			
		N/A		0	0			
7.	If fees may be received in connection with staking tokens, which one of the following options best describes the actions required of token holders as relating to receiving staking rewards? ¹⁴							
	(a) All token holders have the ability, but not the requirement, to affirmatively elect to stake tokens and act as nodes themselves without any special requirements such as minimum holdings (regardless if the holder also has the ability to elect to delegate).			-50	0			
	(b) All token holders have the ability to stake tokens and act as nodes but only if they meet certain minimum holding or additional token requirements that as a practical matter limit			-40	+30		ETH holders can become a validator by depositing 32 ETH. Alternately, ETH	

¹² <https://ethereum.org/en/eth2/staking/>

¹³ <https://ethereum.org/en/eth2/merge/>

¹⁴ If a holder has the ability to both receive meaningful rewards from holding the token as well as receiving awards for staking the token, mark the expectation of profits as N/A and only consider impact on efforts of others.

	the ability of token holders to act as nodes (regardless if the holder also has the ability to elect to delegate).					holders can join a staking pool. ¹⁵
	(c) The substantial majority of token holders earn rewards only in connection with electing to stake through delegating (or voting to delegate) their tokens toward nodes (e.g. voting for super-delegates), but are not required to delegate. ¹⁶			-30	+50	
	(d) Token holders are required to delegate to third parties to validate transactions			-20	+60	
	(e) Staking occurs automatically without any action by the token holder (e.g. token holders are not required to take any action to receive staking rewards such as agreeing to lock-up or encumber their tokens for some period of time)			-10	+70	
	(f) N/A			0	0	
8.	Will the Project Team earn revenues from the system, unrelated to their ownership or sale of the tokens? This includes instances where fees are paid by users to the network for usage of the system and such network is governed primarily by the Project Team, rather than by a decentralized organization, or where the team has a licensing agreement in place and extracts revenue through such agreement.	Yes		-25		
		No		0		Transaction fees are charged to use the Ethereum network, but the fees are earned by miners—not the project team. It is unclear whether the project team conducts any mining. ¹⁷
		N/A		0		

¹⁵ <https://ethereum.org/en/eth2/staking/>

¹⁶ Where, as a practical matter, the total amount of validators is a small percentage of the total amount of token holders and the substantial majority of token holders do not become validators, mark “(c)” rather than “(b)”. Where a substantial number of token holders may become validators in spite of minimum token holding or computational requirements, mark “(b)” rather than “(c)”.

¹⁷ <https://ethereum.org/en/glossary/#transactionfee>

9.	Is there an identifiable Project Team that the public views as the management or development team behind the token, system, or network?	Yes		+15		+20	Vitalik Buterin is the well-recognized co-founder of Ethereum, and he remains involved in development through his role in the Ethereum Foundation, alongside other project team members. ¹⁸
		No		-75		-75	
		N/A		0		0	
10	If the Project Team ceased to exist or be involved in the project, would the value of the token be significantly reduced (e.g. the managerial, entrepreneurial, and promotional efforts of the Project Team are essential or important to the value or success of the enterprise)? Mark “No” if ongoing efforts ministerial in nature.	Yes				+40	ETH has achieved widespread adoption in the cryptocurrency space. Still, its project team—namely, Vitalik Buterin—continues to play a role. For example, the project team is helping to plan and implement Eth2 which will transition Ethereum to Proof of Stake, making the protocol far more scalable and secure. ¹⁹ In support of the new Ethereum staking function, Buterin recently sent \$1.4 million worth of his own ETH to the deposit contract. ²⁰ Conceivably, if Buterin were to renounce his association

¹⁸ <https://ethereum.foundation/about/board/>

¹⁹ <https://ethereum.org/en/eth2/>

²⁰ <https://finance.yahoo.com/news/vitalik-buterin-sends-1-4m-124152240.html>

							with Ethereum, the price of ETH would be negatively impacted.	
		No					-30	
		N/A					0	
11	Team token funding:							
	(a) Did the Project Team allocate a share of tokens to themselves, such that the token holders would expect that their interests in the token's value are aligned with those of the Project Team?	Yes		+50			+20	By way of endowment pools, a specified quantity of ETH (.099 times the initial quantity of ether sold in the presale) was allocated to each the Ethereum Foundation and the early contributors. ²¹
		No		0			-20	
		N/A		0			0	
	(b) Are employees, directors, or advisors of the Project Team compensated, in whole or in part, with the tokens, or based on the price of token?	Yes					+10	By way of endowment pools, a specified quantity of ETH (.099 times the initial quantity of ether sold in the presale) was allocated to each the Ethereum Foundation and the early contributors. ²² Presumably some of the

²¹ <https://blog.ethereum.org/2014/07/22/launching-the-ether-sale/>

²² <https://blog.ethereum.org/2014/07/22/launching-the-ether-sale/>

							Ethereum Foundation tokens are used to compensate employees.
		No				0	
		N/A				0	
	(c) N/A						
12	In marketing the token, system, or network, did the Project Team point to the successful background or other credentials of the management or development team? Also mark "No" if there was no marketing.	Yes				+10	The project team's successes were highlighted. In an Ethereum Foundation blog post announcing that Ethereum would be going public, credentials of each of the four core team members were listed. ²³
		No				-15	
		N/A				0	
13	Token supply economics:						
	(a) Is the token designed to appreciate or be "deflationary," (including through burning) such that supply is reduced over time and, all else being equal, value increases? A token that is burned solely to consume a good or service is not considered	Yes			+20		
		No			0		ETH is not currently designed to be deflationary. However, EIP-1559, an upgrade scheduled for July 2021,

²³ <https://blog.ethereum.org/2014/01/23/ethereum-now-going-public/>

deflationary unless intended to create appreciation in value of remaining digital assets.						could cause ETH to become deflationary. ²⁴
	N/A			0		
(b) Is the Project Team involved in supporting the market for, or price of, the token, through taking action to limit the token supply or ensuring scarcity, buybacks, “burning,” controlling the creation and issuance of additional tokens in a manner intended to support the token price, or similar activities? ²⁵	Yes				+20	
	No				0	ETH is currently locked up in relation to the Beacon Chain—those who have staked ETH cannot withdraw their principal stake or any rewards earned until future upgrades are deployed at a yet-unknown time. ²⁶ It is not clear that this lockup was intended by the project team to control the price of ETH. Also, EIP-1159, an upgrade scheduled for July 2021, incorporates a burning mechanism wherein a Base Fee (to be paid in ETH) charged for each transaction will be burned, thereby reducing the total supply of ETH. ²⁷
	N/A				0	
(c) N/A				0	0	

²⁴ <https://eips.ethereum.org/EIPS/eip-1559#eth-burn-precludes-fixed-supply>

²⁵ If lock-ups are limited to employee, advisor or project team lockups, prudential security lock-ups, or lockups tied to a main net launch or contingent upon the availability of token utility, mark “No.” If lock-ups are expressly designed to affect token price or support the market for the asset, or lock-ups are tied to a bonus or discount, mark “Yes.”

²⁶ <https://ethereum.org/en/eth2/staking/>

²⁷ <https://eips.ethereum.org/EIPS/eip-1559#eth-burn-precludes-fixed-supply>

14	Does the token provide holders with any voting rights? This would include instances where explicit voting rights and governance mechanisms are built into the protocol or articulated in the whitepaper or other materials, but not including the mere ability for people to fork the blockchain or otherwise move off chain.	Yes		+25		
		No		0		ETH does not confer voting rights on holders. ²⁸
		N/A		0		
15	Does the token have <i>existing</i> substantive consumptive uses or other utility within a network or system, unrelated to any potential profit that can be earned by holding the token as an investment?	Yes			-50	ETH is a form of digital currency, much like Bitcoin. ETH also fuels and secures the Ethereum network through the current Proof of Work system ²⁹ and facilitates the various dapp programming and smart contract features of Ethereum.
		No			+100	
		N/A			0	
16	Is the token necessary for the functioning of the network/system (e.g. is it the exclusive token for a system and the network possesses distinct or unique technological features)? Mark "No" if (i) the primary purpose of the token was to raise funds for the Project Team rather than to confer utility to token holders, (ii) the only purpose of	Yes			-15	ETH fuels and secures the Ethereum network through the current Proof of Work system, and it will continue to be necessary to the functioning of the network when the switch to Proof of Stake is complete. ³⁰

²⁸ <https://blog.ethereum.org/2014/07/22/launching-the-ether-sale/>

²⁹ <https://ethereum.org/en/eth/>

³⁰ <https://ethereum.org/en/eth/>

	the token is to generate a return to the holder, or (iii) a token merely provides a discount payment or nominal benefit, but other tokens are also accepted for use on the platform,. “No” may also be appropriate when a token is currently based on an existing protocol (e.g. ERC-20) but is planned to be migrated in the future to a new native chain with additional functionality. Where a migration to a new native chain has begun, indicate “Yes” for either or both of the original token and the new iteration of the token.	No			+40		
		N/A			0		
17	Does the network or other system encourage consumption of the token or discourage holding the tokens for investment, e.g., by devaluing idle tokens or slashing? Where there is a slashing feature that applies to few individuals (like only masternodes), or devaluation efforts that apply only after an overly long time domain (e.g. several years) or to punish bad actors, indicate “No”.	Yes			-50		
		No			0		Eth2 has a slashing policy, but it only uses slashing to discourage deliberate misbehavior by validators and to punish validators who go offline. Typically, offline validators only stand to lose what they would have made as rewards had they participated properly. ³¹
		N/A			0		
18	Were the tokens sold by the Project Team in amounts or at a price that (i) would exceed what a buyer would be expected to be able to consume for its own purposes, or (ii) that is otherwise inconsistent with the reasonable market value of the token’s	Yes			+20		There was no limit on the quantity of ETH sold in the presale. About 60 million ETH was sold, and about \$18.5 million worth of Bitcoin

³¹ <https://blog.ethereum.org/2020/01/13/validated-staking-on-eth2-1-incentives/>

	consumptive use (e.g. a greater price than the market price for those goods and services)? ³² If an asset has no consumptive use, such that the only reason to purchase the asset is an expected increase in value, mark “Yes.”						was raised. ³³ Reportedly, the top 100 purchasers bought over 40% of the ETH sold, and the three largest purchasers each bought about 1 million ETH. ³⁴
		No				-30	
		N/A				0	
19	Was the token sold in an offering that raised funds well in excess of what would be reasonably necessary for the stated use of the proceeds?	Yes				+20	
		No				0	
	Where a project team set an initial hardcap and then exceeded it, where only a limited portion of the proceeds of the token sale were actually used for developing the system, or where the overall size of the fundraiser is significantly beyond that needed to produce the system, mark “Yes.” Where a Company has already completed development of the platform and/or has not articulated any stated use of the proceeds, mark “N/A”. If there is insufficient information to address this question adequately, mark “N/A”. ³⁵	N/A				0	The presale raised about \$18.5 million worth of Bitcoin, which falls under “Scenario Two” of Ethereum’s projections—a seeming middle ground. Scenario Two contemplated using the proceeds for development, community outreach, and the Cryptocurrency Research Group. ³⁶ Also, “[t]he results of the sale were initially used to pay back mounting legal

³² If sales were made to investors generally indicate “No”. Where there is inadequate information pertaining to the quantity of token sale participants, average token purchase amounts, or comparable market prices of comparable goods and services, or where the token is a general store of value token without a specific market application, mark “N/A”. Where there is no consumptive use for a given asset and asset holders primarily expect profits from the holding of the asset, mark “Yes”.

³³ <https://ethdocs.org/en/latest/introduction/history-of-ethereum.html>

³⁴ <https://www.theblockcrypto.com/daily/5383/the-ethereum-ico-where-did-all-the-tokens-go>

³⁵ For stablecoins, mark N/A unless proceeds from issuance are used for development.

³⁶ <https://web.archive.org/web/20140723210810/https://ethereum.org/pdfs/IntendedUseOfRevenue.pdf>

						debts and also for the months of developer effort that had yet to be compensated, and to finance the ongoing development of Ethereum.” ³⁷ There is inadequate information about the use of presale funds to make a clear determination for this question.
20	Did the Project Team raise traditional venture or other equity capital, unrelated to its sale of tokens (which would suggest proceeds from the token offering were not required for development of the project)?	Yes			-10	Ethereum received venture funding from several different fundraising rounds. ³⁸
		No			+20	
		N/A			0	
21	Did any marketing or public facing materials created by the Project Team use terminology traditionally associated with securities, including but not limited to “investment”, “investors”, “securities”, “interest”, “dividend”, “buybacks”, “repurchase plan” or “ROI” (purchase agreement references to securities and investors or filing of a Form D indicating a token is a security would also be initially viewed as securities terminology)? Statements that use terms like “investment” that do not relate to the token or the platform (i.e. a statement indicating that the Project Team has completed an investment into another	Yes			+50	
		No			0	No such terminology was used. The project team has emphasized that ETH is not a security, but rather a token that can be used to pay transaction fees and build and purchase dApp services on the Ethereum platform. ⁴⁰
		N/A			0	

³⁷ <https://ethdocs.org/en/latest/introduction/history-of-ethereum.html>

³⁸ https://www.crunchbase.com/organization/ethereum/company_financials

⁴⁰ <https://blog.ethereum.org/2014/07/22/launching-the-ether-sale/>

	<p>project) would not by themselves constitute a basis for a “Yes” answer.³⁹</p> <p>Where a Project Team has filed a securities registration statement or otherwise stipulated that the token is a security, the Overall legal score is automatically a 5 regardless of the Howey score determined by this Attachment B Asset Scorecard. However, such classification may be revisited based on the development and expectations relating to the asset in the future.</p>					
22	<p>Regardless if the answer to Question #21 is “No”, was any sale of the token marketed by the Project Team (even if subsequently removed) as an investment or providing the opportunity to earn a profit or other form of investment return (e.g. implying the value of the token would increase, or emphasizing the transferability or liquidity of the token)?</p>	<p>Yes</p>			+50	
		<p>No</p>			0	<p>No such marketing took place. The project team has emphasized that ETH is not an investment offering and that no guarantee can be made as to the future value of ETH.⁴¹</p> <p>Of note, the Ethereum website invites users to “help secure the network and earn rewards in the process” in reference to the Eth2 staking feature.⁴²</p>
		<p>N/A</p>			0	

³⁹ Even if such statements have subsequently been removed, mark “Yes” if such statements were previously publicly available.

⁴¹ <https://blog.ethereum.org/2014/07/22/launching-the-ether-sale/>

⁴² <https://ethereum.org/en/eth2/staking/>

23	Which of the following best characterizes the marketing of the token?						
	(a) The Project Team marketed the token sale (in part or in whole) toward identifiable groups of investors, e.g., by promotion on crypto investment websites or message boards ⁴³				+20		
	(b) The token sale marketed <i>exclusively</i> toward identifiable groups of people who may have an actual interest in using the token for its utility or consumptive use (e.g., residents of developing nations where the network is intended to provide a system for their primary use)				-75		
	(c) Neither (a) nor (b)				0		The ETH sale was marketed broadly. Before the presale, the project team stated its intent to “provid[e] an equal opportunity to all those who want to be involved [in the presale]” ⁴⁴ and “to deliver a technology aligned with the community at large.” ⁴⁵
24	Did the Project Team use paid promoters to facilitate sales of the token (e.g. paying commissions to celebrities or to finders or to brokers, platforms or	Yes			+25		
		No			0		

⁴³ A Regulation D offering of tokens to accredited investors would trigger a “Yes” answer. If there are venture capital or cryptofund-type investors that participated in the token sale, also indicate “Yes”. Indicate “Yes” if the Project Team markets the offering specifically toward investors, for instance using a hashtag like #investcrypto, etc. Evidence of specific targeting of investors is not required if their purchasers are investors who are prominent or publicly known.

⁴⁴ <https://blog.ethereum.org/2014/01/29/conference-alpha-testnet-and-ether-pre-sale-updates/>

⁴⁵ <https://blog.ethereum.org/2014/07/14/the-ethereum-project/>

	others in ICO, IEO sales or the like for endorsements, sales or investments)? ⁴⁶	N/A			0		It is unclear whether the project team used paid promoters. When facts are in doubt, we are unable to draw a conclusion in one direction or the other.
25	Did earlier purchasers of the token receive a discount as compared to later purchasers?	Yes			+25		During the first 14 days of the presale, ETH was sold at a rate of 2000 ETH per BTC. Thereafter, the rate linearly declined to a final rate of 1337 ETH per BTC. ⁴⁷
		No			0		
		N/A			0		
26	In marketing the token, did the Project Team indicate that they have or would attempt to have the token listed for trading in the secondary market, or have they otherwise engaged in efforts to encourage secondary market making or liquidity? If announcement is made only after such listing took place or solely for the purpose of informing potential purchasers where they can acquire tokens for use on the platform, mark "No". Also mark "No" if there was no marketing. If a Project Team specified that listing on an exchange was upcoming or that they would	Yes			+20		
		No			-10		There is no evidence of the project team having made statements or efforts to this effect.
		N/A			0		

⁴⁶ For purposes of Question 24, consider any person or entity compensated for promotion related to the sale of the asset as a "paid promoter" (consistent with Director William Hinman's "When Gary Met Plastic" speech on digital assets addressing their broad interpretation of "paid promoters") rather than the Rule 405 statutory definition of "paid promoter." Even if such promotions (to the extent a record exists) have subsequently been removed, mark "Yes" if such statements were previously publicly available.

⁴⁷ <https://blog.ethereum.org/2014/07/22/launching-the-ether-sale/>

	generally undertake efforts to be listed on digital asset trading platforms, indicate “Yes”. ⁴⁸						
27	Can holders of the token earn additional tokens or other consideration through <i>active</i> efforts to engage with or improve the system/network (e.g. the token enables holders to earn if and to the extent it provides data or feedback, programming smart contracts or dApps, or acts like a membership which enables the holder to earn revenues dependent on further actions by the holder), such as providing data or feedback, or programming smart contracts or dApps? ⁴⁹ Such a feature must be currently operational to constitute a “Yes”. For purposes of this question, a Proof of Work system would be considered “active efforts”. A Proof of Stake system, though “active” in some respects, is already addressed in Questions 6 and 7, and should not be considered as an active effort for this question.	Yes			+20	-20	Although the transition to a Proof of Stake system as part of the Eth2 upgrades is ongoing, and the Beacon Chain is live, the merger has not yet occurred. The Ethereum mainnet still uses a Proof of Work system, which allows ETH to be mined. ⁵⁰ Also, those who build smart contracts or dApps can charge ETH as a transaction fee. ⁵¹
		No			0	0	
		N/A			0	0	
28	In marketing the token, did the Project Team indicate that they intended to engage in further development efforts to improve the network or system, play a central managerial role in decision making concerning the network or digital asset, or otherwise enhance the value or operations of the network or system, including by indicating that proceeds from	Yes				+20	At the time of the presale, Ethereum was not yet operational, and the project team stated that ETH would not be usable or transferable until the launch of the genesis block, the

⁴⁸ Even if such statements have subsequently been removed, mark “Yes” if such statements were previously publicly available.

⁴⁹ Rewards, whether executed automatically or algorithmically as a component of the network (as with PoW mining) or on a discretionary basis (e.g. awarded by the Project Team through a bounty program), would be considered earned through active efforts of users. Instances where rewards are given on a one-off basis or for de minimis efforts would not be a basis for a “Yes” answer.

⁵⁰ <https://ethereum.org/en/eth/>

⁵¹ <https://ethereum.org/en/dapps/>

	the token sale would, in part, be used for further development or marketing of the network/system? Also, mark “No” if there was no marketing.						development of which was led by the project team. ⁵²
		No				-20	
		N/A				0	
29	At the time of the initial token sale or sales (including any instrument convertible into or exercisable for the token), was the network or system (including the use of the token in connection with the network or system) (select one) ⁵³ :						
	(a) Not yet operational at all?					+50	Ethereum was not yet operational at the time of the presale, and ETH could not be used or transferred. ⁵⁴
	(b) Partially, but not fully operational (e.g., being in “beta” or “bronze age”, having some key functionality but not all intended key functionality)?					+25	
	(c) Fully operational (having all key functionalities, even if there are less critical functions or applications to be developed), with no further development necessary to function as proposed?					-75	
	(d) N/A					0	

⁵² <https://blog.ethereum.org/2014/07/22/launching-the-ether-sale/>

⁵³ If there is no consumptive usage for a given asset, no corresponding system to be developed to accommodate that consumption, and an asset holder is primarily reliant on the efforts of the issuer to ensure or increase the value or financial stability of the asset, mark (a).

⁵⁴ <https://blog.ethereum.org/2014/07/22/launching-the-ether-sale/>

30	If the answer to #29 is either (a) or (b), is the network or system (including the use of the token in connection with the network or system) currently (select one):						
	(a) Not yet operational at all?					0	
	(b) Partially, but not fully operational (e.g., being in “beta” or “bronze age”, having some key functionality but not all intended key functionality)?					-25	
	(c) Fully operational (having all key functionalities, even if there are less critical functions or applications to be developed), with no further development necessary to function substantially as proposed?					-40	Ethereum is now fully operational ⁵⁵ —it supports the transfer of ETH and powers, by some estimates, over 3,000 dApps. ⁵⁶
	(d) N/A					0	
31	If the value of the token or any returns on the token is determined by a pool of assets, (i) is the pool of assets determined or adjusted by the token sponsor, or (ii) does the pool consist of other investments in other ventures made with the proceeds of the sale (e.g., similar to the DAO)?	Yes				+20	
		No				0	
		N/A				0	
32	Does the Project Team own, directly or indirectly, any intellectual property rights relating to the token or the network (expressly open-sourcing all IP would be an indicia of not owning IP, while expressly reserving IP	Yes				+15	
		No				0	Ethereum is open-source, and the Ethereum Foundation states that it

⁵⁵ <https://ethereum.org/en/>

⁵⁶ <https://www.coindesk.com/which-crypto-dapps-are-on-ethereum>

	rights or licensing would be an indicia of Project Team ownership)? If there is any IP associated with a project team or system, including trademark, copyright or patent, mark “Yes.” ⁵⁷						“do[es] not own Ethereum.” ⁵⁸ However, copyright attaches at the point of creation and some form of IP would exist despite the open-sourcing of the network.
		N/A				0	
33	Does the Project Team currently engage in efforts to encourage broader adoption or use of the network/system or token?	Yes				+20	The Ethereum Foundation continues to “advocate for Ethereum to the outside world.” ⁵⁹ The Ethereum Foundation maintains an active Twitter page where it regularly tweets and retweets information about Ethereum. ⁶⁰
		No				0	
		N/A				0	
34	Decentralization:						
	(a) Do members of the general public have the ability to suggest changes to the system or network? This may include express mechanisms built into the token	Yes				-10	Ethereum is open-sourced. ⁶¹ Anyone can write a smart contract and deploy it to the

⁵⁷ Where a company has transferred the intellectual property related to the technology to an independent, non-profit organization with the intent that such intellectual property would only be used to promote the free availability of that technology, mark “No.” Indicia that such intellectual property would only be used for such purposes would include, but is not limited to, adoption of an intellectual property policy to this effect in the company’s bylaws, or otherwise publicly articulating such intent (e.g. undertaking a patent pledge to never assert a given patent against an open-source implementation of the code).

⁵⁸ <https://ethereum.foundation/philosophy/>

⁵⁹ <https://ethereum.foundation/about/>

⁶⁰ https://twitter.com/ethereum?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor

⁶¹ <https://ethereum.org/en/>

or platform to solicit, encourage or reward input from users.						network. ⁶² Ethereum Improvement Proposals (EIPs) are “the way for people to propose, debate and adopt changes,” and anyone in the Ethereum community can create one. ⁶³
	No				+20	
	N/A				0	
(b) If the answer to #34(a) is Yes, can any changes to the system/network suggested by the general public be implemented without the Project Team’s consent (or because there is no current Project Team)?	Yes				-10	Ethereum community stakeholders decide if an EIP should be adopted. EIP authors are responsible for building consensus within the community. ⁶⁴
	No				+10	
	N/A				0	
(c) If the answer to #34(b) is Yes, have there been any known updates to the network/system code adopted by the network that <i>were not</i> supported or by the Project Team (e.g. the project is or has been subject to a fork unsupported by the Project Team, or because there is no current Project Team support)?	Yes				-20	
	No				+10	
	N/A				0	It is unclear whether there have been any updates to the system code adopted by the network that were not supported by the project team.

⁶² <https://ethereum.org/en/developers/docs/smart-contracts/#permissionless>

⁶³ <https://ethereum.org/en/eips/#introduction-to-ethereum-improvement-proposals-eips>

⁶⁴ <https://ethereum.org/en/eips/#introduction-to-ethereum-improvement-proposals-eips>

35	Do a material number of parties unaffiliated with the Project Team actively engage in development of the network/system or performance of essential tasks or responsibilities (e.g. a substantial number of pull requests or unaffiliated contributors on a project's open source development page, like GitHub or GitLab)?	Yes				-30	There are thousands of developers building on Ethereum, and tens of thousands of pull requests and commits on the Ethereum Github page. ⁶⁵
		No				+10	
		N/A				0	

⁶⁵ <https://github.com/ethereum>

36	Is the network/system currently actively used for its intended purpose by a material number of parties unrelated to the Project Team (e.g. a substantial number of dapps or projects building on a chain, or substantial amounts of daily active users engaging with the network/system)? ⁶⁶	Yes				-30	By some estimates, over 3,000 dApps are powered by Ethereum. ⁶⁷ According to a 2020 report, Ethereum has approximately 2,300 monthly active developers. ⁶⁸ There are consistently over 1 million daily Ethereum transactions. ⁶⁹
		No				+15	
		N/A				0	
Totals:			100	240	60	95	

⁶⁶ Where there is no consumptive use for a given asset, holders do not “consume” such an asset, and a holder is primarily reliant on the efforts of the issuer to ensure or increase the value or financial stability of the asset, mark “No.”

⁶⁷ <https://www.coindesk.com/which-crypto-dapps-are-on-ethereum>

⁶⁸ <https://medium.com/electric-capital/electric-capital-developer-report-2020-9417165c6444>

⁶⁹ <https://etherscan.io/chart/tx>