

October 17, 2025

via eRulemaking Portal ([www.regulations.gov](http://www.regulations.gov))

Mr. Scott Rembrandt, Deputy Assistant Secretary for Strategic Policy,  
Ms. Julie Lascar, Director, Office of Strategic Policy,  
**U.S. Department of Treasury (USDT), Terrorist Financing and Financial Crimes (TFFC),**  
1500 Pennsylvania Avenue, NW, Washington, DC 20220.

**Re: Innovative Methods to Detect Illicit Activity Involving Digital Assets (Docket ID: TREAS-DO-2025-0070)<sup>1</sup>**

Dear Mr. Rembrandt and Ms. Lascar,

On behalf of Data Boiler Technologies, I am pleased to provide the TFI and Office of Strategic Policy TFFC of the USDT with our comments on the captioned Request for Comment on *“Innovative Methods to Detect Illicit Activity Involving Digital Assets”* that supports the Administration’s policy on responsible growth and use of digital assets, as outlined in the Executive Order 14178<sup>2</sup> on *“Strengthening American Leadership in Digital Financial Technology.”* Data Boiler is a Pioneer in FinTech with patented inventions in signal processing, trade analytics, machine learning, time-lock cryptography, etc. We frequently comment on regulatory policy both domestically and abroad with over 12 years in business.

**Key takeaways**

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**Four specific technologies we recommend:**

- I. **API** – Model Context Protocol in combination with agentic AI
- II. **AI** – Federated Learning, onset signal detection to detect irregularities at an accelerated speed and are more tolerable to data imperfection. The immediacy to act and pursue aggressively is substantially superior than a perfect decision made too late. Those opposed to the use of AI are either naïve or suspicious. Also, see our [comment letter to the National Science Foundation on Development of an AI Action Plan](#).
- III. **Digital identity verification** – Public Key Infrastructure ([see this](#)) and uses a mix of digital traits to stitch and track provenance (map interactions, clusters + genre, lineage, bridge, score, flag) validate against impersonation, verify and detect possible circumvention, and authenticate in case of compromise due to identity theft, account takeover, or abuse of access. We agree and support the [NIST Special Publication 800-63-4](#) released on August 20, 2025.

<sup>1</sup> <https://www.regulations.gov/docket/TREAS-DO-2025-0070>

<sup>2</sup> <https://www.govinfo.gov/content/pkg/DCPD-202500169/pdf/DCPD-202500169.pdf>

IV. **Use of blockchain technology and monitoring** – In normal switchboard/ network topology operations, there may possibly be some components pulled out, and it will break the communication chain downstream. Fortunately, this issue can be resolved by considering a “tree” (hierarchical topology)/ “mesh” approach. “Tree”/ “Mesh”, in essence, use sub-system that “self-heals” after a component unit is removed. By having separate “bypass switches” that close when components may be taken out, the system then closes the loop to avoid data flow breaks. To further strengthen the “link”, the system may use more than one device (“bypass switches”) to act as controller, so the system may support more channels with more accurate timing that helps sequencing events. “Tree” and “Mesh” are more effective ways than *Daisy Chain* to cope with modern topology design requirements. “Mesh” approach would perform better if quality of data is perfect, but it will take forever to perfect the quality of data. For “Tree” approach, it works better with messy data and delivers faster results, yet it requires well defined schemes to deal with high volume of data for ontology/ classification/ categorization. It is an art to choose between centralization (“tree”) versus decentralization (“mesh”). There is no absolute right/ wrong answer, but we can help optimize between the cost of control and the most desirable “link” of activities.

We have reservation with the BIS / IIF prescribed [unified ledger](#) / [Project Agorá](#) that integrates different financial assets and central bank money onto a single, programable platform to automate and streamline transactions. Consolidated Audit Trail has set a bad precedent. Function creep is one of the concerns. Practicality, privacy and security are questionable. It is a money pit. Limited focus on wholesale cross-border payments do not help. Bad actors / foreign adversaries play across markets and payment systems simultaneously. Better to analyze data directly at its originating source and scrutinize high risks cases as prompted by informants / suspicious activity intelligence. Also, agentic AI may use baits to catch illicit activities [hopping](#) around.

Somehow regulators crave for evermore data and are accustomed to standardizing everything in a structured format for interoperability. They seem reluctant or unwilling to learn to use NoSQL, object-oriented databases, AI large language models, Federated learning, Model Context Protocol to deal with unstructured data, API, and other challenges. They have an obsession with a centralized golden-source, despite it taking forever to achieve.

We are hesitant to discuss anything sensitive or specific in this publicly accessible comment letter pertaining to how a detection mechanism to discern permissible versus prohibited activities, except for the above high-level technology recommendations and the following sections to showcase of our understanding of the subject matter. Once some novelty techniques become public, hackers would attempt to game and bypass the controls. We at Data Boiler are happy to reveal details in private and customize our solutions to fit regulators and different financial institutions’ purposes.

**Dollarization against de-dollarization, co-exist of DeFi and TradFi to keep each other intact, by suck instead push**

### *Contexts, priority focus, and turning the table*

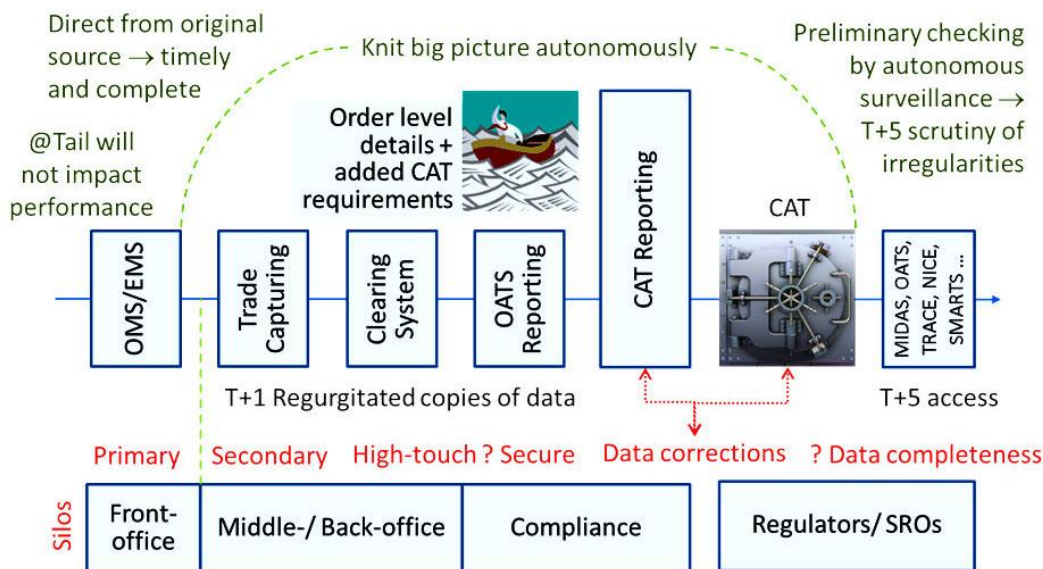
Reference to our 2022 comment letter to the USDT (page 12 in particular),<sup>3</sup> we pointed to a previous dilemma, where burning, selling, or using any of the confiscated crypto assets could result in adverse outcomes to the US. We think the GENIUS Act<sup>4</sup> is a brilliant first step in turning the table against foreign adversaries / bad actors hid under the guise of DeFi / De-dollarization movements by tying stablecoin reserves to the US Treasuries. Next steps: develop comprehensive regulatory frameworks and enhance detection and deterrence of illicit digital asset activity.

<sup>3</sup> [https://www.databoiler.com/index.htm\\_files/DataBoiler%20Treasury%20Digital%20Assets%20202208.pdf](https://www.databoiler.com/index.htm_files/DataBoiler%20Treasury%20Digital%20Assets%20202208.pdf)

<sup>4</sup> <https://www.congress.gov/119/bills/s394/BILLS-119s394is.pdf>

We applaud the Under Secretary for Terrorism and Financial Intelligence (TFI) Mr. Hurley for his remarks at the Association of Certified Anti-Money Laundering Specialists Assembly Conference.<sup>5</sup> He nailed the struggles faced by both regulators and the industry – complexity increase and information overload. Thanks to the FinCEN, FRS, FDIC, NCUA, and the OCC for the recent release of FAQ regarding Suspicious Activity Reporting (SAR) requirements.<sup>6</sup> It is certainly handy and helpful. We agree with the Under Secretary that there is often more noise than signals in surveillance. Rather than waste time and effort in perfecting whatever “golden-source” of data, such as the outdated design of Consolidated Audit Trail (CAT),<sup>7</sup> identifying vital essential onset signals in real-time should be the major focus.

Per our numerous comment letters<sup>8</sup> to the SEC, we despise the unnecessary burden on broker-dealers to report data to a “stale vault” when data could have been analyzed directly at its originating source. We counter suggest a solution that draws on an analogy from H&R Block for CAT and combating fraud.<sup>9</sup>



The immediacy to act and pursue aggressively against bad actors / foreign adversaries is substantially superior than a perfect decision made too late. Therefore, we at Data Boiler focus on decentralized federated learning for more timely intelligence and have patented solutions to detect irregularities at an accelerated speed and are more tolerable to data imperfection.

To effectively mitigate privacy and security risks without creating bureaucracy,<sup>10</sup> do keep in mind the following three management fundamentals: (i) segregation of duties<sup>11</sup>, (ii) keep clean with high incentives (e.g. whistleblower award), and (iii) precognitive prevention by reducing the number of unknown unknowns<sup>12</sup>. We envisage a crowd model to reduce false positives, false negatives, and unknown unknowns while enhancing security.

As a former committee member of BITS (Banking Policy Institute) in reviewing blockchain or Distributed Ledger Technology (DLT) during FinTech Ideas Festival in 2017, one thing amazes me the most is – this technology or DeFi meant to disrupt or “disintermediate” the centralized bureaus, such as banks and the Depository Trust & Clearing Corp (DTCC);

<sup>5</sup> <https://home.treasury.gov/news/press-releases/sb0251>

<sup>6</sup> <https://www.fincen.gov/system/files/2025-10/SAR-FAQs-October-2025.pdf>

<sup>7</sup> <https://www.linkedin.com/pulse/cat-outdated-design-since-2012-kelvin-to/>

<sup>8</sup> [https://www.databoiler.com/index\\_htm\\_files/DataBoiler%20CAT613%20Comments.pdf](https://www.databoiler.com/index_htm_files/DataBoiler%20CAT613%20Comments.pdf);  
[https://www.databoiler.com/index\\_htm\\_files/DataBoiler%20SEC%20CAT%20Enhanced%20Security.pdf](https://www.databoiler.com/index_htm_files/DataBoiler%20SEC%20CAT%20Enhanced%20Security.pdf) ;  
[https://www.databoiler.com/index\\_htm\\_files/DataBoiler%20SEC%20CAT%20Limitation%20Liability.pdf](https://www.databoiler.com/index_htm_files/DataBoiler%20SEC%20CAT%20Limitation%20Liability.pdf) ;  
[https://www.databoiler.com/index\\_htm\\_files/DataBoiler%20SEC%20CAT%2020210503.pdf](https://www.databoiler.com/index_htm_files/DataBoiler%20SEC%20CAT%2020210503.pdf) ;  
[https://www.databoiler.com/index\\_htm\\_files/DataBoiler%20SEC%20CAT%20Funding%20202212.pdf](https://www.databoiler.com/index_htm_files/DataBoiler%20SEC%20CAT%20Funding%20202212.pdf)

<sup>9</sup> <https://www.linkedin.com/pulse/hr-block-analogy-cat-combating-fraud-kelvin-to/>

<sup>10</sup> <https://www.linkedin.com/pulse/cat-through-z-security-privacy-requirements-kelvin-to/>

<sup>11</sup> <https://www.linkedin.com/pulse/big-data-privacy-security-control-kelvin-to/>

<sup>12</sup> <https://www.pmi.org/learning/library/characterizing-unknown-unknowns-6077>

DTCC is also a big investor in Blockchain. As time passes, a vast percentage of Americans already have vested interest in crypto. The President's Working Group on Digital Asset Markets Report (PWG-DAMR)<sup>13</sup> recognizes the pragmatic realities where TradFi and DeFi would have to co-exist (rather than be mutually exclusive) to preserve the US leadership position.

### *Divergence in Geopolitics, Convergence of DeFi and TradFi*

Twenty-first century challenges include a rebellious move by an insurgent with a war chest to orchestrate a market wide shake-up, and foreign adversaries wanting to erode the US's prominent market position. Countries get caught in between the crossfire of currency and trade wars.<sup>14</sup> Protagonists in a game of hegemony fight and form alliances in controlling the flow of both information and physical goods. Both currency and tariffs are measurement units of contracts, inflation and deflation are phenomena resulting from breached contracts. The timing is right for the US to flex muscles rather than being taken for granted. Ever since President Trump declaration of Liberation Day tariffs, it has become clearer that BRICS and other countries are building alternative payment platforms through DeFi and other channels to by-pass the US strongly influenced SWIFT system and our related economic sanctions against terrorists and money launderers.

Foreign nations promoting their own Central Bank Digital Currency (CBDC) while pushing other digital assets out their doors or allegedly "exporting" DeFi to the US is a de-dollarization attempt. It is perturbing that the European Stability Mechanism, an intergovernmental organization established by the EU Member States that is supposed to be a US alliance has a politician dare to openly call for *"reducing exposure to dollarization of the world economy through US dollar-denominated stablecoins to enhance European strategic autonomy."*<sup>15</sup> That is pathetic. EU should seek closer ties with the US against those who favor Gold / a basket of foreign currencies as their reserve, or else they will be abandoned after use.

Europe has laid a heavy hand in using MiCA to harmonize regulation of Digital Assets in European markets (e.g. counterparty due diligence in settlement and custody, maturity and liquidity mismatches underpin some stable-coins' structure, risk of redemption run, and other vulnerabilities). MiCA's liquid reserve requirement tames and limits innovation for smaller players.<sup>16</sup> As I have said in a past press interview,<sup>17</sup> *"Financial institutions are building the infrastructure. They are building all the bridges and toll roads. And when transactions flow across the highway, they can charge rent on it."* MiCA's liquid reserve requirement legitimizes Big Brands' rent seeking behaviors. Smaller players with limited legal resources may struggle to navigate the licensing and disclosure requirements, forcing them to either consolidate under the arm of Big Brands or relocate. Ebbs and flows put European crypto-markets at a disadvantage if compared to a more crypto-friendly regime in the US.

From our experience when serving as member of Expert Stakeholder Group on equity and non-equity market data quality and transmission protocols, appointed by the European Commission<sup>18</sup> to advise on their market data reform,<sup>19</sup> we have first-hand experience of the so-called *"Capital Market Union"* / *"Savings and Investments Union"*. The EU has underinvested in data center technology and financial infrastructure, have many silos, are overly protective of their past, and lack courage to dive deep into solving complex challenges. *"Simpler rules but not regulatory relaxations"* is their

<sup>13</sup> <https://www.whitehouse.gov/wp-content/uploads/2025/07/Digital-Assets-Report-EO14178.pdf>

<sup>14</sup> <https://www.linkedin.com/pulse/modeling-trade-war-from-currencies-kelvin-to-zxsbe>

<sup>15</sup> <https://www.esm.europa.eu/blog/euros-moment>

<sup>16</sup> [https://www.spglobal.com/division\\_assets/images/articles/regulating-crypto/regulating-crypto-final.pdf](https://www.spglobal.com/division_assets/images/articles/regulating-crypto/regulating-crypto-final.pdf)

<sup>17</sup> <https://www.watertechnology.com/data-management/7951615/bloombergs-figi-extends-crypto-inroads>

<sup>18</sup> <https://ec.europa.eu/transparency/expert-groups-register/screen/members/consult?memberId=131743&memberTypeId=3&lang=en&fromExpertGroups=3938>

<sup>19</sup> [https://finance.ec.europa.eu/document/download/7c9482af-5695-4a24-a452-eb0360e5ebb0\\_en?filename=241017-deg-report-bonds\\_en.pdf](https://finance.ec.europa.eu/document/download/7c9482af-5695-4a24-a452-eb0360e5ebb0_en?filename=241017-deg-report-bonds_en.pdf) ; <https://www.linkedin.com/pulse/faulted-esma-equities-consolidated-tape-rtss-consequences-kelvin-to-pbxre> ; [https://www.databoiler.com/index.htm\\_files/DataBoiler%20Europe%202024.pdf](https://www.databoiler.com/index.htm_files/DataBoiler%20Europe%202024.pdf)

current vibe. EU took the easy path in regurgitating their cumbersome laws for TradFi into overseeing the digital assets space. They undermine opportunities and lack appreciation of innovations. The journey to growth requires a deep sophisticated understanding of what “*tokenization*” or “*DeFi*” is truly about ([see next section](#)). Delusional (difference for the sake of being different) and slogan-based diplomacy does not serve the public any good.

It is not wrong for Global financial regulators including the IMF,<sup>20</sup> Financial Stability Board,<sup>21</sup> and Bank of England<sup>22</sup> for their long advocacy in trying to tackle the challenges of cross-border activities. We think the Financial Action Task Force (FATF) Recommendation 16 has an honorable goal to enable common technical standards to be used across the financial industry to improve accuracy and efficiency in Anti-Money Laundering / Counter-Terrorism Financing (AML/CFT) compliance processes. It enhances interoperability in the long-term. However, it undermines different travel rule solutions for cross-border transactions in the short-term.

Varying protocols have different pros and cons from a technical standpoint. One should consider different levels of privacy and security protection, processing efficiency versus the costs burden, etc. Require additional originator, beneficiary, transactional details from customers and retaining the structure and unstructured data fields throughout the payment chain post challenges for Virtual Asset Service Providers (VASPs).

Somehow regulators crave for evermore data and are accustomed to standardizing everything in a structured format (such as ISO 20022 or XML). They seem reluctant or unwilling to learn to use NoSQL, object-oriented databases, AI large language models, Federated learning, Model Context Protocol to deal with unstructured data, API, and other challenges. They have an obsession with a centralized golden-source, despite it taking forever to achieve.

The US is better because we constantly seek innovations to improve efficiency and effectiveness in all things.

### *The meanings of Tokenization and regulatory scope*

In a sharing economy,<sup>23</sup> crypto / DLT are like other shared services (e.g. Uber, Air B&B) that unleash tremendous “*societal values by promoting access over ownership, which challenges traditional notions of property rights.*” Tokenization to some extent may equate to Securitization, when it serves as an alternative or a poor person way for securities issuance and asset gathering processes without the costly lawyers, underwriters, rating agencies, asset servicers, trustees, etc.

We think the Bank for International Settlements (BIS) – The Next-Generation Monetary and Financial System<sup>24</sup> has an overly complicated definition or concept about “*tokenization*”, cited “... *the concept of tokenization, the process of recording claims on real or financial assets that exist on a traditional ledger onto a programmable platform... Tokenization represents the next logical progression in the evolution of the monetary and financial system, as it enables the integration of #messaging, reconciliation and asset transfer into a single, seamless operation...*” Putting in layman terms, both “*tokenization*” and “*securitization*” aim to make assets tradable and liquid.

A nuance – fractional participation in a tokenized product that is otherwise framed as a risk management or treasury tool with no general solicitation or advertising, no emphasis on profit potential, offered as part of a broader banking relationship and is a direct bank obligation under “*incidental banking service*”,<sup>25</sup> may consider as investment activities

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<sup>20</sup> <https://www.elibrary.imf.org/downloadpdf/books/082/465808-9781513595603-en/ch002.xml>

<sup>21</sup> <https://www.fsb.org/wp-content/uploads/P160222.pdf>

<sup>22</sup> <https://www.bankofengland.co.uk/-/media/boe/files/financial-stability-in-focus/2022/cryptoassets-and-decentralised-finance.pdf>

<sup>23</sup> <https://schoolofeconomy.com/stories/2024/10/03/rise-of-the-sharing-economy-redefining-ownership-and-consumption/>

<sup>24</sup> <https://www.bis.org/publ/arpdf/ar2025e3.pdf>

<sup>25</sup> <https://www.law.cornell.edu/cfr/text/12/225.28> ; <https://www.ecfr.gov/current/title-12/chapter-II/subchapter-A/part-225/subpart-I/section-225.86> ; SEC v. Marine Bank v. Weaver, 455 U.S. 551 (1982) <https://supreme.justia.com/cases/federal/us/455/551/>

under the current law. If the tokenized product meets the criteria of an *“investment contract”* under the Howey test or falls within the statutory definition of a security under the Securities Act of 1933, then one may use private placement (Reg D)<sup>26</sup> and restrict access only to accredited investors. If it is structured as a commodity option, it may be offered only to Eligible Contract Participants (ECPs) via registered Futures Commission Merchant (FCM) / Retail Foreign Exchange Dealer (RFED). Banking exemptions are narrow and unlikely to apply unless the product is a direct bank obligation.

As illustrated from this example, community banks and credit unions are uncompetitive. They are forced to handover business to a third-party or their larger counterparts with a brokerage / securities service arm. Clients suffer from bureaucracy and higher fees. When formal orders legitimize exploitations, informal sub-orders will emerge as a counter response. If policy-makers want to tokenize activities in the above example to go away (without price control to curb the Elites, nor rule-by-enforcement that is a double-edged sword), we recommend granting a *“break-bulk exemption”* (e.g. shared representation of a claim < 35, aggregate < 110% cost if client was otherwise engaged in individual contract).

This will allow smaller banks and credit unions to use incidental banking service to compete. Opportunists create tokenized products because there is demand (e.g. in breaking-bulk, avoid hefty fees imposed by Elites). Also, *“DLT-based platforms have the potential to improve upon the existing correspondent banking model... stablecoin sandwich model, in which fiat currency in one country is converted first into a stablecoin, then that stablecoin is transferred to another individual, and then converted back into the local fiat currency at its destination.”*<sup>27</sup> These are healthy DeFi activities in keeping TradFi intact, otherwise bureaucracy and barriers would be built and accumulated.

Tokenized assets can be uncountable, i.e. unlimited supply. Uncapped supply creates inflationary pressure, hence value of such digital assets cannot be properly determined or quantified by the amount of outstanding inventory. The original Dodd-Frank Volcker rule’s securities Inventory RENTD provision has its merits. Uncountable *“Funny money”* is more akin to *“non-cashable gambling chips”*.

We do recognize that, for example, credit card reward points, frequent flyer programs and the like, if tokenized to allow easier transfer of these *“reward tokens”* to freely trade and exchange with other third-parties beyond family members may serve good community values. **NOTE:** *“tokenized reward points”* may have unlimited supply and program organizers may have “small-print” discretionary clauses to change or alter reward programs at any time (analogy to *“hard fork”* – a backward-incompatible upgrade to the blockchain). There is no formal *“certification body”* for token classification in the US, but to rely on issuer’s initial representation in simple agreement for future tokens (SAFT) to *“self-certified”*, p.s. \$BTC has no centralized issuer, no initial sale or fund raising. We do have the following honest questions to ask policy makers:

Does the Congress seriously want to lay an invisible hand of Government to regulate these private *“reward program”* activities? Do regulatory agencies, the SEC and FINRA in particular, have the necessary capacity to practically review hundreds of thousands, if not millions, of applications to register these *“reward tokens”* as *“securities”*?

### *Accounting treatment of non-cashable gambling chips*

There is no single authoritative FASB standard under the US Generally Accepted Accounting Principles for how a recipient of reward points or tokens should be accounted for. Commercial practices varied – some treat them as *“freebie”* and not keeping any record of it in accounting book, others consider it as a *“rebate / discount”* deducting them directly from expenses, also certain firms may consider it materiality and treat them as a *“prepayment asset”* on their balance sheet.

<sup>26</sup> <https://www.ecfr.gov/current/title-17/chapter-II/part-230#subpart-D>

<sup>27</sup> <https://www.federalreserve.gov/newsevents/speech/files/waller20250929a.pdf>

Firms operating “reward programs” must choose between ASC 450-30 Gain Contingency Model or ASC 606 Vendor Rebate Model to develop a defensible and consistent policy. There are different valuation-of-rewards approaches – (i) direct cash-out value, (ii) estimated redemption value, or (iii) conservative average based on historical redemptions – timing of recognition varies depending on the policy – (a) at redemption, (b) when statement is issued, or (c) when qualify purchases are made. Additional nuances include but are not limited to: no purchase requirement, consolidation of reward programs, tax treatment,<sup>28</sup> interest or yield bearing on these “reward tokens”, etc.

Is commercial disputes or consumer protection mechanisms being insufficient that it calls for involvement of securities laws? Are many existing commercial reward programs being unsustainable and they seek tokenization as an exit or chance of revitalization? Would “rewards” be used as an alternate mean to raise fund cheaper than bank loans / PE VC fundings? There are more questions than answers.

Reference our submitted comment to the CFTC,<sup>29</sup> CFTC is in a better position than the SEC to regulate the trading of Spot Crypto Asset Contracts and Tokens sold via SAFT. CFTC authority under §2(c)(2)(D) of Commodity Exchange Act (CEA) and COMEX Rule 7 help curb and mitigate situations such as the Monex case,<sup>30</sup> retail metal fraud cases,<sup>31</sup> and Silver Thursday event.<sup>32</sup> We recommend the CFTC to update Core Principle 12 outlined in §5(d) of the CEA and Part 38,<sup>33</sup> to require Designated Contract Markets (DCMs) to set aside at least 1 to 2% of gross revenue allocated to risk education program for existing and prospective retail clients, on top of protection against abusive practices.

The SEC should refrain from regulating any “uncountable” digital asset that is more akin to “*non-cashable gambling chips*.” It should not be subjected to investor protection over securities trading activities. Wrapping money-market fund protections around these “*funny money*” does NOT make it any safer (lipstick on a pig is still a pig). The SEC does not need to reconsider its withdrawn Safeguarding rule proposal,<sup>34</sup> which – if revived and modified to accommodate digital asset nuances—could be a detriment to the time-tested Exchange Act framework.

We do NOT desire the SEC to cross subsidize the cost to regulate crypto from equity trading. While it would be appropriate to leverage the SEC oversight of Public Company Accounting Oversight Board (PCAOB) to let the accounting professionals to determine proper ways in measuring, recording, and disclosing of “*Ancillary Assets*” under the “*Responsible Financial Innovation Act proposal*” (RFIA).<sup>35</sup> We look forward to the RFIA final bill formally introduced in the Senate that will address the asset classification protocols issue prompted by the CFTC v. Archegos Capital Management LP case.<sup>36</sup>

### *The agreeable, the controversy, and the US Global Influence*

Our upmost respect for the SEC, and in particular, the Hon. Commissioner Hester Peirce. Her consistent high performance in comprehensive review of all matters across both TradFi and DeFi development is commendable. Yet, crypto behaves more like non-investment grade bonds or derivatives than equity, where the current robust and well-functioning securities laws if tweaked to accommodate crypto requirements may have unintended consequences. [One size does not fit all.](#)

<sup>28</sup> <https://assets.kpmg.com/content/dam/kpmg/pdf/2016/06/tnf-wnit3-june-6-2016.pdf>

<sup>29</sup> [https://www.databoiler.com/index.htm\\_files/DataBoiler%20CFTC%2020250818.pdf](https://www.databoiler.com/index.htm_files/DataBoiler%20CFTC%2020250818.pdf)

<sup>30</sup> <https://www.secdactions.com/two-significant-losses-for-the-cftc/>

<sup>31</sup> [https://www.fincen.gov/system/files/case\\_example/040.pdf](https://www.fincen.gov/system/files/case_example/040.pdf)

<sup>32</sup> <https://www.scottsdalemint.com/articles/2024/the-hunt-brothers-how-two-billionaires-broke-the-silver-market/>

<sup>33</sup> <https://www.ecfr.gov/current/title-17/chapter-I/part-38>

<sup>34</sup> <https://www.sec.gov/rules-regulations/2025/06/safeguarding-advisory-client-assets>

<sup>35</sup> [https://www.banking.senate.gov/imo/media/doc/senate\\_banking\\_committee\\_digital\\_asset\\_market\\_structure\\_legislation\\_discussion\\_draft.pdf](https://www.banking.senate.gov/imo/media/doc/senate_banking_committee_digital_asset_market_structure_legislation_discussion_draft.pdf)

<sup>36</sup> <https://cases.justia.com/federal/district-courts/new-york/nysdce/1:2022cv03401/578896/84/0.pdf>

We do agree and support the SEC oversight on *“Governance token with rights”* and *“Covered Liquidity Staking Receipt Tokens”* and that fits squarely with the definition of *“securities”* as well as those involves *“bundled services”* that resemble an investment contract. Regarding the RFA proposed *“Ancillary Assets,”* we do like the duo oversight setup – the SEC gatekeeping the primary sales and the CFTC be the secondary trading regulator.

We have no objection to the SEC establishing a safe harbor for certain airdrops from characterization as *“sales”* under Section 2(a)(3) of the Securities Act or an exemption from the corresponding registration requirements under Section 5 of the Securities Act. Consider also an exemption for distributions of digital assets by decentralized physical infrastructure (DePIN) providers in securities transactions for purposes of rewarding participation in DePIN networks,<sup>37</sup> as well as distributions of certain NFT offerings. We are open minded about DePIN transformation to serve the US in the long-term.

A caveat – crypto ETPs, the underlying assets do NOT necessarily have to be *“securities”*. SEC recent approved \$DOJE is a crypto ETF with underlying *“assets”* being MEME Coin. Recalling a statement by the SEC Division of Corporate Finance on Feb 27, 2025,<sup>38</sup> it stated that *“MEME Coins for entertainment and social cultural purposes are NOT securities.”* Any *“Digital Collectables”* that do NOT involve CEA regulated commodity options, futures, or leveraged OTC transactions, it would be outside scope of CFTC’s oversight.

As mentioned earlier, uncountable tokenized assets are more akin to *“non-cashable gambling chips”*. Uncapped supply creates inflationary pressure, hence value of such digital assets cannot be properly determined or quantified by the amount of outstanding inventory. While reliance on regulated structure of the product and transparent disclosures for valuations and regulatory controls may be an insurmountable reality. The industry has to accept what is practical if it means fulfilling the demand and supply of willing buyers, sellers, and issuer interest, that preserves the US leadership position in Digital Assets. That being said, that guardrail may ONLY shuffle risks related to fraud and manipulation out the door of SEC regulated markets, but NOT stopping the risk spreading elsewhere. Bad actors / foreign adversaries play across markets and payment systems simultaneously.

The SEC in late September asked altcoin applicants to withdraw their 19b-4 filings,<sup>39</sup> but to submit S-1 filings instead under newly approved generic listing standards.<sup>40</sup> The set criteria include:

1. The asset is listed on a market that is a member of the Intermarket Surveillance Group<sup>41</sup> (ISG).
2. The asset has futures contracts that have been traded for at least six months on a market regulated by the CFTC.
3. The asset is tracked by an existing ETF that allocates at least 40% of its net asset value (NAV) to that commodity.

The first criteria reminded me of AIG – notorious for engaging in credit enhancement and securitization that led to their financial distress during the 2008 financial crisis. Most members of ISG are stock exchanges. Some are privately held (e.g. IEX, LTSE, MEMX). IEX exited its corporate listing business in 2019.<sup>42</sup> LTSE has yet to achieve significant market share.<sup>43</sup> Kraken just acquired CFTC-regulated Small Exchange from IG Group for \$100 million, that IG bought it from Foris DAX (a subsidiary of Crypto.com initially founded in Hong Kong) for \$11.9 million in 2023.<sup>44</sup> An ISG can be bought and sold easily.

<sup>37</sup> <https://www.sec.gov/newsroom/speeches-statements/peirce-092925-deep-statement-doublezero-no-action-letter>

<sup>38</sup> <https://www.sec.gov/newsroom/speeches-statements/staff-statement-meme-coins>

<sup>39</sup> <https://x.com/EleanorTerrett/status/1972675160831377787>

<sup>40</sup> <https://www.sec.gov/newsroom/press-releases/2025-121-sec-approves-generic-listing-standards-commodity-based-trust-shares>

<sup>41</sup> <https://isgportal.org/public-members>

<sup>42</sup> <https://www.ft.com/content/bbbd5306-dda5-11e9-9743-db5a370481bc>

<sup>43</sup> <https://memx.com/case-studies/long-term-stock-exchange>

<sup>44</sup> <https://www.msn.com/en-us/money/companies/ig-pockets-75m-after-disposal-of-future-exchange-platform-to-beef-up-crypto-capabilities/ar-AA1OzXxa>

KalshiEX is a CFTC-Regulated DCM. They allow adults in all 50 states to make trades on a broad range of topics — from sports to the weather; they are facing regulatory scrutiny and litigation.<sup>45</sup>

Few ISG members are regulators (e.g. FINRA, CIRO, ASIC). We certainly welcome our friendly Canadian and Australian allies. UK Prime Minister Winston Churchill once said *“We have no lasting friends, no lasting enemies, only lasting interests.”* We do note some ISG members domicile outside of the US may have close ties with their respective governments. For example, China Hong Kong S.A.R. government holds a 6% stake in HKEX, while London Metal Exchange (LME) is a subsidiary of HKEX. LME involved in the 2022 Nickel futures contracts cancellation case<sup>46</sup> and fined \$11.9 million by the UK Financial Conduct Authority.<sup>47</sup> Can US rely on international organizations to act in America’s favor without being taken for granted,<sup>48</sup> or would US retreat from global governance be exploited by other powers?<sup>49</sup>

### *Power to suck new money or weak links of Crypto regulatory framework*

Futures contracts that have been traded for at least six months on CFTC-regulated markets, does not remove the inherent risks of the underlying asset of a Crypto ETP, including *price volatility*. While Crypto ETPs do not use derivatives to intentionally create leverage, daily compounding of returns can have a magnified effect over time. Returns could be significantly different from the benchmark’s long-term performance. Volatility drag (beta slippage) is a type of *tracking error*, it has a leveraged-like effect on losses that grows with the fund's volatility and holding period. Crypto ETPs have no account for *bridging risk*. If a “bridge” is used to move the wrapped token to another blockchain, it introduces another layer of smart contract risk and potential security vulnerabilities. Bridges have been the target of some of the largest hacks in crypto history.<sup>50</sup> Crypto ETPs trade only during standard exchange hours, while the underlying may trade 24x7. This means investors cannot react to major market movements after hours. Crypto flash crash around 7pm Eastern Time on October 10 wiped over \$19 billion in liquidations.<sup>51</sup>

Also, there are custody and security risk. Custody standards must account for the technological and counterparty risks inherent in digital asset storage. Unlike traditional securities held in omnibus accounts at custodians, crypto assets are often stored in hot or cold wallets, with varying degrees of multi-signature control, smart contract governance, and insurance coverage. DCMs should be encouraged to use *“qualified custodians”*<sup>52</sup> that meet minimum cybersecurity and operational resilience benchmarks, including SOC 2 Type II audits, key sharding protocols, and real-time monitoring of withdrawal activity. Custodial arrangements should also be subject to independent attestation and periodic stress testing to ensure recoverability in the event of compromise or insolvency.

We can go on and on to pile up the list of risks and corresponding control techniques, mitigations, and best practices. Weak links of Crypto regulatory framework can be exploited by bad actors. The dilemma is the more we add new compliance requirements, the more accumulated bureaucracy in dragging the US productivity. Foreign adversaries want the Western civilizations to fall in their traps. Chasing zero-tolerance or rule-by-enforcement consumes mental and physical energy. Resources and efforts should instead be allocated to strengthening digital asset infrastructure resiliency.

<sup>45</sup> <https://www.regulatoryoversight.com/2025/08/kalshi-faces-regulatory-scrutiny-and-litigation-from-several-angles/>

<sup>46</sup> [https://www.financialresearch.gov/working-papers/files/OFRwp-24-09\\_central-clearing-and-trade-cancellation.pdf](https://www.financialresearch.gov/working-papers/files/OFRwp-24-09_central-clearing-and-trade-cancellation.pdf)

<sup>47</sup> <https://www.fca.org.uk/news/press-releases/first-fca-enforcement-action-and-fine-against-recognised-investment-exchange>

<sup>48</sup> <https://www.cato.org/sites/cato.org/files/2025-05/PA%20996.pdf>

<sup>49</sup> <https://www.chathamhouse.org/2025/06/can-us-retreat-global-governance-be-exploited-other-powers>

<sup>50</sup> [https://www.elliptic.co/blog/analysis/over-1-billion-stolen-from-bridges-so-far-in-2022-as-harmony-s-horizon-bridge-becomes-latest-victim-in-100-million-hack/hss\\_channeltw-1344645140](https://www.elliptic.co/blog/analysis/over-1-billion-stolen-from-bridges-so-far-in-2022-as-harmony-s-horizon-bridge-becomes-latest-victim-in-100-million-hack/hss_channeltw-1344645140) ; <https://www.bbc.com/news/technology-60933174>

<sup>51</sup> <https://www.ar.ca/blog/the-weekend-crypto-crash-a-lesson-in-illusory-liquidity>

<sup>52</sup> <https://www.sec.gov/newsroom/speeches-statements/office-hours-gary-gensler-qualified-custodian>





the biggest force behind DeFi is like Mafia making other gangs abide by their rules. Through a combination of fear, military strengths, strategic alliance and a sophisticated hierarchy to ensure loyalty. It needs to have shocked effect on bystanders.

Keep in mind that ideology may persuade US citizens to believe one ideology is better than the others. Divide and conquer is the foreign adversaries' tactic in setting new or separate World orders. They want to paint the picture of US consuming 25% of the World's resources while its population is about 4-5%. They attempt to tarnish American ideology for their envy of the US advantages in achieving more with less. Their provocations fail because any ideology is the enemy of free will in the US long standing heritage. Americans cannot be divided but be united to endure difficult times before peace is achieved.

Last but not least, the ideal way to weed out Illicit activity involving Digital Assets is by reducing bureaucracy and removing barriers that widened the gap between the *"haves"* and *"have nots."* When the World prospers more under the US leadership, there will be less bad actors or adversaries.

Feel free to contact us with any questions and please keep us posted where our expertise might be helpful.

Sincerely,

**Kelvin To**

Founder and President

**Data Boiler Technologies, LLC**

This letter is also available at: [https://www.DataBoiler.com/index.htm\\_files/DataBoiler%20USDT%2020251017.pdf](https://www.DataBoiler.com/index.htm_files/DataBoiler%20USDT%2020251017.pdf)

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