DMA CONSULTING GROUP

Compliance & Policy Research

DMA RESPONSES TO CRYPTO INDUSTRY COUNTER-CLAIMS

A Rejoinder to the Industry and Proponent Response Companion Commentary on the Model Cryptocurrency Risk Disclosure Document

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EXECUTIVE SUMMARY

PURPOSE OF THIS MEMORANDUM

This memorandum responds, item by item, to the thirteen counter-arguments set out in the companion document "Industry and Proponent Response: A Companion Commentary to the Model Cryptocurrency Risk Disclosure Document." Its purpose is to test the strength of each industry rejoinder against the original disclosure item and to identify where the industry position, notwithstanding its surface plausibility, does not withstand closer examination — whether because it relies on an imperfect analogy, understates the significance of its own concessions, rests on data of doubtful reliability, or restates rather than resolves the risk identified. Where the industry response has genuine force, this memorandum says so; where it does not, it explains why. Read together with the two prior documents, this memorandum is intended to leave the reader with a complete, three-sided record of the disclosure item, the strongest case against it, and DMA's assessment of that case.

TEM 1. NO REFERENCE TO ANY ASSET IN THE REAL ECONOMY

Industry Counter-Claim (Summarized):

Industry participants argue that gold's value likewise does not derive from a claim on earnings, and that a blockchain network's censorship-resistant settlement or smart-contract utility supplies an analogous, if intangible, reference point for value — comparable to a toll road or spectrum license commanding a price without an earnings claim.

DMA Rejoinder:

The gold analogy fails on its own facts: gold carries millennia of monetary history and, more importantly, substantial non-monetary demand — jewelry, electronics, dentistry, central-bank reserves — that persists independent of speculative sentiment and provides a demand floor cryptocurrency lacks entirely. Toll roads and spectrum licenses are also poor comparators: each is a non-fungible, legally enforceable claim on a specific, identifiable, income-producing piece of infrastructure, with a specific counterparty and a specific cash flow (tolls collected, license fees), whereas a fungible cryptocurrency unit confers no equivalent enforceable claim on network revenue, however much the network itself may be technically useful. Network-utility theories of value (variants of Metcalfe's Law applied to token price) have been academically challenged and have not been shown to explain observed crypto price behavior with any reliability. Fixed supply, standing alone, does not manufacture value — many things are provably scarce (a specific misprinted book, a specific serial number) without commanding significant, non-speculative demand. The industry response restates that cryptocurrency is scarce and technically useful; it does not establish that scarcity or technical utility translates into a reference value comparable to those grounding conventional asset classes.

ITEM 2. NO ASSURANCE THAT VALUE WILL BE RETAINED

Industry Counter-Claim (Summarized):

Proponents argue this risk is common to all unhedged assets, that risk-adjusted historical returns favor Bitcoin, and that maturing market structure — spot ETFs, institutional custody, balance-sheet adoption — is strengthening price support over time.

DMA Rejoinder:

The comparison to equities and real estate elides a categorical difference, not merely a difference of degree: equities and real estate can be independently valued by reference to earnings, rents, or replacement cost, which supplies an analytical basis for judging whether a price is high or low relative to fundamentals. Cryptocurrency valuation has no such independent anchor, meaning the risk of permanent loss is qualitatively different — not simply larger — than the risk borne by holders of cash-flow-generating assets. Historical return figures citing Bitcoin's long-term performance are also subject to substantial survivorship bias: thousands of cryptocurrencies that no longer trade, or that fell to negligible value, are excluded from those calculations, inflating the apparent track record of the asset class as a whole. Finally, ETF approval and institutional adoption are demand-side developments that can support price without addressing, and indeed while masking, the absence of a valuation methodology; deeper institutional participation increases the capital at risk without resolving the underlying question of what, if anything, anchors the price.

ITEM 3. EXTREME PRICE VOLATILITY

Industry Counter-Claim (Summarized):

Industry participants argue volatility is characteristic of a young, thinly capitalized asset class in price discovery, that realized volatility has declined as markets have matured, and that early internet and biotechnology equities followed a similar volatility trajectory.

DMA Rejoinder:

More than fifteen years after Bitcoin's introduction, and more than a decade after the emergence of a liquid derivatives market, realized volatility remains materially elevated relative to diversified equity and bond

benchmarks, and sharp multi-year drawdowns (2018, 2022) have recurred at each stage the market was said to be maturing, casting doubt on the maturation thesis as a predictive matter rather than a retrospective narrative. The comparison to early internet and biotechnology equities is inapt in a critical respect: those companies were, even in speculative early stages, tied to identifiable revenue-generating or regulatory-approval-driven business models that eventually resolved the speculation one way or the other; the great majority of cryptocurrencies have no comparable revenue model to resolve toward. To the extent institutional participation has grown, that development increases the scale of capital exposed to this volatility and raises the possibility of contagion into regulated financial institutions holding or facilitating crypto exposure — a risk amplification, not a risk mitigant.

ITEM 4. UNIQUE CUSTODY RISKS

Industry Counter-Claim (Summarized):

Proponents characterize self-custody as financial sovereignty rather than a defect, and point to maturing custody solutions — multisignature wallets, state-chartered trust custodians, and insured institutional custody — as evidence the risk is being addressed, attributing custodial failures to specific bad actors rather than the asset class.

DMA Rejoinder:

The sovereignty framing does not offset the practical reality that irreversible, unrecoverable loss from a single lost key or entered error is a risk of a magnitude imposed on ordinary retail holders by few other asset classes, and one that conventional custody, deposit insurance, and legal recourse were specifically developed to eliminate. The repeated, high-profile custodial failures cited as isolated bad actors (including large-scale exchange and lending-platform collapses) are notable precisely because they arose from reintroducing centralized counterparty risk into an asset class marketed on the premise of eliminating it — meaning attempts to solve the custody problem tend to recreate the very intermediary risk the technology was said to avoid, without the deposit insurance or resolution regime that mitigates that risk in traditional banking. State trust charters and private insurance products, while a genuine improvement, remain patchwork, jurisdiction-specific, and without a federal backstop comparable to FDIC insurance, leaving a materially thinner protective layer than that available to holders of insured bank deposits or SIPC-protected brokerage accounts.

ITEM 5. PROBLEMS OF PROOF OF OWNERSHIP

Industry Counter-Claim (Summarized):

Industry participants point to blockchain's immutable, publicly verifiable transaction record and to the Uniform Law Commission's 2022 UCC Article 12 amendments as evidence that the legal and evidentiary infrastructure for resolving title disputes is developing favorably, in some respects ahead of comparable frameworks for early physical-asset markets.

DMA Rejoinder:

UCC Article 12 principally resolves priority among competing secured claims to a digital asset; it does not adjudicate whether a specific transfer was authorized, fraudulently induced, or the product of theft, and it does not create a public recording or title-registry system comparable to a county land registry or the DTCC's centralized securities recordkeeping. Adoption of the Article 12 amendments remains uneven across states, leaving holders in non-adopting jurisdictions without even this incremental protection. Blockchain immutability, moreover, cuts against the ownership-verification argument as often as it supports it: because transactions generally cannot be reversed without a coordinated, contentious hard fork of the entire network, victims of fraudulent or coerced transfers typically have no practical mechanism for restitution once a transfer is confirmed on-chain — a rigidity not present in conventional title systems, which retain court-ordered correction, reversal, and equitable remedies as a matter of course.

ITEM 6. ANONYMITY OF OWNERSHIP AND TRANSFER

Industry Counter-Claim (Summarized):

Proponents distinguish anonymity from pseudonymity, note that blockchain analytics firms routinely trace fund flows across addresses and services, and argue this is more transparent than untraceable physical cash.

DMA Rejoinder:

Blockchain forensic tracing is effective principally where a transaction touches a centralized, KYC-compliant exchange or service; transfers that remain within self-custodied wallets, that route through non-compliant peer-to-peer channels, or that employ mixing services, CoinJoin-style protocols, or privacy-preserving cryptocurrencies (such as those relying on zero-knowledge proofs) can be effectively untraceable using current forensic methods — and the continued development of such privacy-enhancing technology is specifically intended to defeat the tracing capability the industry response relies upon. That forensic tracing is possible in some cases does not establish that ownership is generally provable or that transfers are generally recoverable; it establishes that traceability exists on a spectrum, which is the very risk Item 6 identifies rather than a rebuttal of it.

ITEM 7. LIMITED REGULATORY PROTECTION

Industry Counter-Claim (Summarized):

Industry participants cite the March 2026 SEC/CFTC joint interpretive release, pending federal market-structure legislation, and existing state money-transmitter licensing and exchange compliance programs as evidence that meaningful regulatory protection already exists and is expanding.

DMA Rejoinder:

An interpretive release is sub-regulatory guidance, not a rule adopted through notice-and-comment rulemaking, and can be revised or withdrawn by a future Commission without the procedural protections attaching to formal rules; it does not itself create investor remedies. The pending federal legislation cited remains unenacted, and, notably, both the House-passed and Senate draft bills are designed in significant part to narrow the SEC's jurisdiction over secondary-market crypto transactions, which is in tension with the claim that this legislation, once passed, would primarily strengthen investor protection rather than curtail it in some respects. State money-transmitter licensing is principally an anti-money-laundering and consumer-funds-transmission regime; it does not impose the disclosure, custody, suitability, or examination obligations that anchor investor protection in the registered-securities context. Read together, the regulatory landscape cited by industry participants is real but nascent, narrower in investor-protection scope than portrayed, and subject to reversal — not yet the settled protective framework the response implies.

ITEM 8. SHOULD NOT BE CONSIDERED A “STORE OF VALUE”

Industry Counter-Claim (Summarized):

Proponents draw an analogy to gold's volatility following the end of dollar-gold convertibility in the 1970s, and argue Bitcoin's fixed, disinflationary issuance schedule provides the structural basis for a long-run store-of-value thesis notwithstanding short-term volatility.

DMA Rejoinder:

Gold's 1970s volatility occurred against the backdrop of centuries of established monetary and industrial demand that had already conferred a durable value floor; the volatility reflected repricing after price controls were lifted, not the absence of an underlying demand base, which is the actual condition facing most cryptocurrencies. A disinflationary issuance schedule does not, by itself, produce price stability — in cryptocurrency markets it has instead correlated with pronounced speculative cycles keyed to anticipated supply events (e.g., “halving” cycles), arguably fueling volatility rather than dampening it. Most fundamentally, an asset that has repeatedly lost seventy to eighty percent or more of its value within a given multi-year window, as major cryptocurrencies have on multiple occasions, does not satisfy the store-of-value function on any honest reading of that term, regardless of the length of the holding period invoked to reframe the analysis.

ITEM 9. ASSOCIATION WITH ILLICIT ACTIVITY

Industry Counter-Claim (Summarized):

Industry participants cite blockchain-analytics estimates placing illicit transaction volume below one percent of total activity, argue this compares favorably to illicit finance moving through cash and the conventional banking system, and emphasize blockchain's transparency as an aid to law enforcement.

DMA Rejoinder:

Blockchain-analytics estimates of illicit volume rely on labeled addresses and known typologies and are widely understood within the analytics community itself to understate actual illicit activity, since newly created addresses, novel laundering techniques, and privacy-preserving transfers are by construction difficult to capture in such estimates. Even accepting the cited percentages, the absolute dollar volume of illicit cryptocurrency activity has grown substantially in dollar terms, and U.S. Treasury and law-enforcement authorities have specifically identified cryptocurrency's borderless, near-instantaneous, large-value transfer capability as a distinguishing feature exploited in ransomware payments, sanctions evasion, and state-sponsored theft — a qualitatively different risk profile than physical cash, which is constrained by the practical logistics of physically moving currency across borders in bulk. Transparency assists law enforcement only after the fact and only where forensic tracing succeeds, which, as discussed under Item 6, is not assured.

ITEM 10. VALUATION WITH REFERENCE TO GOVERNMENT-BACKED CURRENCY

Industry Counter-Claim (Summarized):

Proponents argue that dollar-denominated quotation is a convention shared with gold and equities, that Bitcoin's algorithmically fixed supply is independent of central-bank discretion regardless of the currency used to quote its price, and note limited legal-tender adoption in certain jurisdictions.

DMA Rejoinder:

The disclosure's point is not undermined by observing that gold and equities are also dollar-quoted; the relevant distinction is that gold and, to a lesser degree, equities retain independent, non-monetary sources of demand and use even if all fiat currency vanished, whereas cryptocurrency's practical value to a holder — what it can purchase, what it is reported as being worth, what tax is owed on its disposition — remains entirely mediated through, and dependent on, the very government-backed monetary systems it is marketed as superseding. “Independent monetary policy” in the sense of a fixed issuance schedule does not equate to independent value; a fixed schedule for an asset with no non-monetary demand source still yields a price of zero absent continued fiat-denominated buyer interest. The cited legal-tender experiments are, moreover, limited, contested, and in at least one prominent case substantially scaled back after adoption — evidence that the standalone-currency function remains aspirational rather than realized in practice.

ITEM 11. RESEMBLANCE TO GAMBLING RATHER THAN INVESTING

Industry Counter-Claim (Summarized):

Industry participants point to network fee capture, staking rewards, governance rights, and the Howey test's application to distinguish investment-contract crypto arrangements from gambling as evidence that many crypto assets function as equity-like claims on network activity rather than pure wagers.

DMA Rejoinder:

For the overwhelming majority of cryptocurrencies, empirical studies and market observation show token price movement correlating far more closely with broad crypto-market sentiment and speculative flows than with underlying network usage metrics, meaning that even where fee-capture or staking mechanisms technically exist, they explain a small fraction of observed price behavior relative to speculative positioning. Fee revenue captured by even the most actively used networks remains minuscule relative to those networks' total market capitalization, undermining the claim that such mechanisms meaningfully substitute for the cash-

flow-based valuation anchor available to equity holders. The Howey test's application to particular initial coin offerings as investment contracts does not extend to the vast secondary market in which most cryptocurrency changes hands day to day, and provides no support for treating ordinary secondary-market trading — the context in which the overwhelming share of retail participation occurs — as anything other than the zero-sum, sentiment-driven wagering the Disclosure Document describes.

ITEM 12. NO APPARENT ECONOMIC OR COMMERCIAL NEED FOR THE ASSET CLASS

Industry Counter-Claim (Summarized):

Proponents argue that a demonstrated necessity has never been a precondition for a legitimate asset class, citing gold, fine art, and collectibles, characterize the anti-debasement critique as a substantive economic position rather than mere ideology, and cite remittances, financial inclusion, and permissionless settlement as concrete commercial use cases.

DMA Rejoinder:

Gold and fine art are, once again, poor comparators because each carries substantial non-monetary demand — industrial and ornamental use for gold, aesthetic and cultural value for art — that is entirely absent for the great majority of cryptocurrencies, meaning the "no necessity required" argument proves less than it claims by comparing cryptocurrency to assets that do, in fact, serve an independent function. The cited commercial use cases, while real, represent a small fraction of total cryptocurrency trading and holding volume, which remains overwhelmingly dominated by speculative trading rather than remittance or unbanked-access use; citing a minority use case to justify the valuation of the asset class as a whole overstates its significance. Finally, characterizing monetary competition as a coherent economic rationale does not resolve the point at issue: a policy preference for how money ought to be organized is, definitionally, an ideological or philosophical position about the proper structure of a monetary system, not evidence of an unmet commercial need in the sense that historically justified other asset classes.

ITEM 13. UTILITY OF BLOCKCHAIN TECHNOLOGY DOES NOT ESTABLISH THE VALUE OF CRYPTOCURRENCY

Industry Counter-Claim (Summarized):

Industry participants concede the point for permissioned enterprise blockchain deployments, but argue that for public, permissionless networks with staking or fee-burn mechanisms, token demand is more directly tied to verified network usage than the Disclosure Document's framing suggests.

DMA Rejoinder:

Even accepting that certain tokens carry a designed-in operational role, the concession volunteered by proponents themselves — that this argument does not extend to the large number of cryptocurrencies with no functional network role — confirms the Disclosure Document's central point for the majority of the asset class. For the subset of tokens where staking or fee-burn mechanisms genuinely exist, available data indicates that the economic magnitude of fee capture remains small relative to token market capitalization, and that price movements continue to track broader speculative market cycles far more closely than on-chain usage metrics. Structural design features that could, in principle, tie value to usage do not establish that they do so in practice at a scale sufficient to displace speculation as the dominant driver of price, and the burden of demonstrating that displacement rests with those making the claim.

CONCLUDING NOTE

DMA CONCLUSION

Nothing in this memorandum should be read to suggest that every cryptocurrency, or every use of blockchain technology, is without commercial merit*. Several of the industry counter-claims addressed above — particularly those concerning fee-capture mechanisms in specific proof-of-stake networks and legitimate remittance or financial-inclusion use cases — have genuine, if limited, force, as noted in the relevant items. The broader conclusion is that the industry responses, taken as a whole, do not displace the core risk disclosures set out in the Model Investor Risk Disclosure Document, and in several instances (Items 4, 6, and 9 in particular) the attempted rebuttal illustrates or reinforces the very risk it was offered to answer.*