

May 30, 2025

Commissioner Hester M. Peirce  
Chair of SEC Crypto Task Force  
U.S. Securities and Exchange Commission  
100 F Street NE  
Washington, DC 20549-1090

**Re: Securities and Exchange Commission's ("SEC" or "Commission") Crypto Task Force (the "Task Force") Invitation For Public Commentary Regarding Public Offerings Of Crypto Assets, Safe Harbor From Registration and Tokenization**

Dear Commissioner Peirce and Members of the SEC Crypto Task Force:

DealMaker appreciates the opportunity to provide comments on the questions posed by the Commission's Crypto Task Force on February 21, 2025.<sup>1</sup> We appreciate the Task Force's diligent efforts to seek extensive information from the public through a transparent process. DealMaker is committed to fostering innovation while ensuring robust investor protection within the evolving digital asset and capital raising landscape. Our engagement with regulators and industry participants on capital markets reflects these commitments.<sup>2</sup> We believe that a clear and workable legal and regulatory framework for crypto assets is critical to achieving these goals.

Our observations are drawn from operating within the online capital raising ecosystem where, to date, at least \$11 billion in capital has been generated online using Regulation A and Regulation CF.<sup>3</sup> In our extensive experience helping issuers with the tools to raise capital online, DealMaker knows firsthand the importance of disclosure and regulation in protecting investors and deterring bad actors. We believe that an automatic "Rule 195 exemption" could unnecessarily expose investors to risk. The current regulated framework, specifically Regulation A, is the most appropriate

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<sup>1</sup> Statement, Securities and Exchange Commission, Hester M. Peirce, "There Must Be Some Way Out of Here", (Feb. 21, 2025), <https://www.sec.gov/newsroom/speeches-statements/peirce-statement-rfi-022125>

<sup>2</sup> For example, Testimony of Rebecca Kacaba, CEO and Co-Founder, DealMaker, The Future of American Capital: Strengthening Public and Private Markets by Increasing Investor Access and Facilitating Capital Formation, (February 26, 2025), <https://financialservices.house.gov/calendar/eventsingle.aspx?EventID=409469>

<sup>3</sup> Statement of the Division of Economic and Risk Analysis, Securities and Exchange Commission, Angela Huang (May 2025), <https://www.sec.gov/files/dera-reg-2505.pdf>, p. 1; Statement of the Division of Economic and Risk Analysis, Securities and Exchange Commission, Angela Huang and Vladimir Ivanov (May 2025), <https://www.sec.gov/files/dera-reg-cf-2505.pdf>, p. 1.

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framework to provide a workable regime for crypto offerings and a path to decentralization, while adequately protecting investors and enhancing access to capital for non-crypto offerings, thus allowing the market to grow, jobs and wealth to be created and technology innovation to take place in new and exciting forms.

In this submission, we will focus on the Task Force's questions regarding public offerings of crypto assets (**Question 9**), a safe harbor from registration (**Questions 10-13**), and tokenization (**Questions 40-46**).

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## About DealMaker and the Capital Raising Industry

DealMaker<sup>4</sup> is a privately held financial technology company. Our platform empowers companies to raise capital efficiently and compliantly, from early stage to public company, democratizing access to both capital and investment opportunities for everyday Americans. We envision a world where every American can own the brands they love and use as part of their everyday lives.

To date, DealMaker has facilitated over \$2 billion in capital raises for over 900 American companies across various industries, contributing to the creation of an estimated 20,000 to 40,000 new jobs in America.<sup>5</sup> Simultaneously, hundreds of thousands of individuals and families have become investors in private companies through our platform, democratizing wealth creation enabled by the Jumpstart Our Business Startups (JOBS) Act. Over the last two years, four companies have gone public after raising on the DealMaker platform.

## Fostering Digital Innovation: Building On The Enduring Success of the JOBS Act

The proposals below build upon the successes of the JOBS Act, proposing the use of a proven system to build the pathway for compliant capital raising within the crypto industry. The JOBS Act, enacted in 2012, effectively balances capital formation and job creation for America's start-ups and growing businesses with robust investor protection. It significantly expanded access to private markets while maintaining

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<sup>4</sup> See, <https://www.dealmaker.tech/>

<sup>5</sup> For example, studies show that capital investment of \$1,000,000 can produce a range of new job creation from 10 to 20, depending on the industry. See, Peri Report 2020, "Job Creation Estimates Through Proposed Economic Stimulus Measures", at p.6, Table 1, available at [https://peri.umass.edu/images/Pollin--Sierra\\_Club\\_Job\\_Creation---9-9-20--FINAL.pdf](https://peri.umass.edu/images/Pollin--Sierra_Club_Job_Creation---9-9-20--FINAL.pdf) ; See also Peri Report 2023, "Employment Impacts Of New U.S. Clean Energy, Manufacturing, and Infrastructure Laws", at p. 13-19, available at [https://peri.umass.edu/images/publication/BIL\\_IRA\\_CHIPS\\_9-18-23-1.pdf](https://peri.umass.edu/images/publication/BIL_IRA_CHIPS_9-18-23-1.pdf) .

essential anti-fraud provisions. The JOBS Act facilitated rapid adoption by American businesses, creating a proven ecosystem over the past twelve years.<sup>6</sup> The JOBS Act has demonstrated remarkable resilience in diversifying capital markets, with Regulation A raising \$9.4 billion to date and faring better than venture capital during recent economic downturns.<sup>7,8</sup>

Over the 12 years since the JOBS Act's enactment, the US innovation sector has continued to evolve, providing entrepreneurs with unprecedented capital-raising opportunities. The following recommendations aim to empower American entrepreneurs and the crypto industry to capitalize on these advancements, with the intent of expanding the JOBS Act's application, reducing unnecessary barriers to capital formation and maintaining the consistent application of anti-fraud provisions. This will allow investors to be protected, such that the markets can grow and technology innovation can continue to occur and advance America's capital markets.

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## I. Responses to Crypto Task Force Questions Regarding Public Offerings

**Question 9: Does Regulation A under the Securities Act, including the disclosure and ongoing reporting requirements, provide a useful vehicle to conduct offerings of crypto assets? Would revising aspects of Regulation A make it more useful for crypto asset offerings?**

DealMaker believes that Regulation A offers a strong foundation and valuable framework for offerings of crypto assets, especially those that maintain some degree of centralized control such as security tokens, early stage network tokens and company-backed tokens. The disclosure requirements of Regulation A are well-suited for raising capital for early-stage companies and can be effectively adapted to early-stage blockchain projects through a principles-based approach and a supplemental form requirement. For example, while some disclosure requirements related to board members and managers may need adjustment for blockchain projects, the underlying principle of focusing on those responsible for the project's creation, development, and management remains applicable and can provide

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<sup>6</sup> Supra note 3.

<sup>7</sup> Supra note 3.

<sup>8</sup> Venture Capital dipped 49% during the last economic downturn. See Kingscrowd Report "2024 Investment Crowdfunding: Trends, Stats and Platform Rankings" available at <https://kingscrowd.com/2024-investment-crowdfunding-trends-stats-and-platform-rankings/#section-state-private-markets>

investors with the necessary disclosure to make informed decisions.

Regulation A presents an opportunity to create a viable framework for security token, asset token, network token and company-backed token offerings with some targeted enhancements. To enhance Regulation A's effectiveness for crypto companies, we propose the following updates:

## **1. Remove the \$75 Million Cap on Reg A Offerings: the Current Caps Are Insufficient And A Universal Impediment to Growth**

Regulation A has proven to be an excellent tool for capital formation, successfully facilitating billions of dollars in investment opportunities. However, the current \$75 million cap, ostensibly designed to facilitate broader public investment, now presents as an artificial constraint that limits the potential use of Reg A by enterprises in high growth, capital-intensive sectors. Removing the cap unlocks the full power of Regulation A, enabling genuine retail participation in early-stage ventures and providing investors access to a wider array of opportunities, both in the crypto space and in traditional markets. This change could serve as a crucial catalyst for fostering the growth of dynamic, capital-intensive enterprises in the U.S. and unlocking innovation.

### **(a) *Capital Formation In Today's Crypto Assets Sector***

Consider, for instance, today's crypto assets industry: The industry is characterized by rapid scaling and significant capital requirements. Developing robust blockchain infrastructure, securing cutting-edge talent, investing in secure and compliant operational frameworks, and driving widespread adoption often demand capital far exceeding the current \$75 million threshold. For these projects, Regulation A is the perfect fit with a higher cap.

### **(b) *Beyond Crypto Assets - A Broader Economic Chokepoint***

The crypto industry is symbolic of a broader industry trend: established, non-crypto companies engaged in cutting-edge innovation or large-scale infrastructure projects such as advancements in AI, biotech, or even major sports franchises embarking on multi-billion dollar stadium developments encounter a similar problem. For these entities, the current \$75 million limit renders Regulation A entirely moot, effectively excluding them from using a well tested capital raising framework that should facilitate broader public investment. The current cap forces these companies to forgo the benefits of Regulation A or pursue more restrictive and less inclusive funding avenues. The intention of Regulation A was to democratize access to capital and investment opportunities; however, its current structure fundamentally undermines

this very purpose for a significant segment of the population.

## **(c) *Perpetuating Inequality -Excluding Retail from Premier Opportunities***

The most significant and concerning consequence of the current Regulation A structure is its role in perpetuating a two-tiered investment system. As noted, the current limit on Regulation A is too low for premier, high-growth investment opportunities. As a result, these ventures are often funneled towards private placements and offerings exclusively available to "accredited investors." This systematically prevents the average retail investor – the very individuals Regulation A was designed to empower – from participating in potentially transformative financial opportunities.<sup>9</sup>

This is not just about fairness; it's about robust market development. Diversifying the investor base for innovative companies, including those in crypto, fosters greater community engagement, broadens access to wealth creation, and creates a more resilient and inclusive financial ecosystem. The current cap inadvertently reinforces the divide between Main Street and Wall Street, limiting the upside potential for everyday Americans while concentrating it among a select few.

## **(d) *The Path Forward: Uncapping Regulation A for a More Vibrant Economy***

To truly unleash the potential of Regulation A, both for the crypto assets industry and for the broader innovation economy, we must expand its utility. Uncapping Regulation A, or at the very least substantially raising its limits to reflect modern capital needs and market realities, is no longer a luxury but rather a necessity. Doing so would:

- *Make Regulation A Workable Regime for Crypto and Beyond:* A higher or uncapped limit would transform Regulation A into a genuinely attractive and viable option for crypto companies, enabling them to raise the necessary capital to scale, innovate, and contribute to America's role as a leader in digital asset innovation and regulation. It would also empower larger, more established companies engaged in significant capital projects to leverage this framework, bringing a wider array of investment opportunities to the public.
- *Democratize Investment Access:* This change would be a monumental step towards fulfilling the original promise of Regulation A: to democratize

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<sup>9</sup> The cap is one example of a change needed to modernize Regulation A. Consider another simple example of a Regulation A tweak that would encourage retail investment while at the same time, allowing innovative companies to raise more capital under Regulation A: companies offering perks to their investors such as warrants offered for investments over a designated amount, must include the value of those perks in the offering cap, thereby artificially limiting the capital that can be raised and used to grow the business. To simplify the rules for all users and encourage participation, the value of these perks should not count towards the Regulation A cap.

investment. It would allow retail investors to participate in the growth of groundbreaking companies across various sectors, fostering broader wealth creation and a more equitable distribution of economic opportunity.

- *Stimulate Innovation and Economic Growth:* By facilitating capital formation for promising ventures, a modernized Regulation A would serve as a powerful engine for innovation, job creation, and overall economic growth within the United States. It would signal to the world that the United States is committed to fostering an environment where innovation can thrive, irrespective of its capital requirements and the American people can fund America's businesses.

Ultimately, removing the cap on Regulation A offerings creates a pathway to bring unregulated capital formation activities into a regulated space, within the structures Congress created to ensure business formation, transparent business planning, adequate company disclosures, as well as competition by American businesses, including crypto companies, on a global scale. This will allow these companies to meet their capital needs using Regulation A and build their investment communities. It also protects investors, giving investors more control and insight into the investments they purchase using a well-proven and reliable regulatory regime.

## **2. Adaptable Disclosure Requirements & Crypto Specific Disclosures**

While Regulation A's disclosure framework is based on traditional corporate equity offerings, it can be adapted to suit the unique characteristics of crypto assets like network tokens and asset-backed tokens. Incorporating additional categories of disclosure tailored to these assets will further enhance investor protection. Disclosures should be functionally tied to risk and structured around ongoing managerial efforts, which are the primary sources of misinformation and potential investor harm.<sup>10</sup>

To truly make Regulation A a default and accessible regime for crypto capital formation, we propose allowing funds to utilize Regulation A to raise capital, with a clear disclosure requirement template tailored to their unique structures. This expansion would also enable more law firms to understand and advise on Regulation A, ultimately driving down costs and fostering a robust ecosystem for legitimate crypto innovation.

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<sup>10</sup> As we set out below in our comments, we do not agree that "control" alone should be used to assess the scope of disclosures required.

### **3. Clear Guidance on Secondary Market Trading**

While Regulation A securities can be traded freely, clarification is needed on whether this extends to tokenized assets traded on decentralized exchanges or alternative trading systems. A revised Regulation A framework should explicitly address secondary token trading, provided the project meets certain disclosure or decentralization thresholds. As CrowdCheck Law notes in its submission to the Task Force, secondary trading is a key incentive for utilizing tokenized securities or crypto assets, and the current state law compliance requirements are often based on outdated "manual" exemptions.<sup>11</sup> We agree that addressing state law compliance for secondary trading through federal preemption would benefit issuers. We also note that Regulation A has existing restrictions on the amount owners can sell, so even if the offering amount were uncapped, this restriction (e.g., to 30% of the offering size for affiliates) would remain, and could be hard-capped as well to protect the value of the digital assets. These kinds of nuanced controls are examples of what can be more easily applied to an existing regulatory regime than to an entirely new one.

### **4. Modernize The Broader Regulation A Framework**

Beyond addressing the offering cap, disclosure and secondary market trading, a modernized Regulation A framework should also consider specific adjustments that will further facilitate legitimate crypto asset capital formation while upholding robust investor protections.

#### ***(a) Harmonize 12(g) for a Streamlined Growth Pathway***

Section 12(g) of the 1934 Securities Exchange Act,<sup>12</sup> which dictates the thresholds for mandatory SEC registration as a reporting issuer, including the 500 unaccredited investor limit, presents an unnecessary hurdle for growing companies leveraging Regulation A or Regulation Crowdfunding. While exceptions exist for Regulation A and Regulation CF shareholders, the current Regulation A exception, removes the exemption for shareholders once an issuer has a public float of equal to or greater than \$75 million, or, in the absence of a public float, annual revenues of \$50 million or more.<sup>13</sup>

Artificially imposing these public reporting requirements on Regulation A issuers of a

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<sup>11</sup> Letter to Crypto Task Force, Sara Hanks, Crowdcheck Law, (March 19, 2025), p.3, <https://www.sec.gov/files/ctf-input-hanks-2025-3-19.pdf>.

<sup>12</sup> 15 U.S.C. § 78l(g)

<sup>13</sup> 17 CFR 240.12g5-1(a)(7)

certain size is inconsistent with efforts to make Regulation A work for all private investments, whether in crypto or otherwise. If a company meets the asset or revenue threshold, it prematurely triggers a requirement to become a reporting company within two years—a timeline well in advance of reasonable necessity, benefiting neither the company nor its investors.

To avoid this premature registration, the Regulation A exemption limits under 12(g) should be raised to contemplate the rapid growth expected from crypto companies using Regulation A and fostering a more consistent and predictable regulatory environment for emerging businesses.

## ***(b) Modernize Broker-Dealer Fee Regulation***

Broker-dealer compensation in Regulation A offerings is currently governed by FINRA Rule 5110. The existing compensation guidelines, which are based on analyses from 1990, are no longer applicable to contemporary online offerings that leverage sophisticated private placement technology or tokenization systems.<sup>14</sup> Originally designed for traditional roadshows, Rule 5110 does not adequately account for modern technology costs, payment processing fees, marketing fees, or the blended fee models prevalent in today's market. These blended models enhance industry scalability and efficiency by consolidating necessary services for online Regulation A offerings and reducing costs compared to traditional, siloed services. They also entail significant technology development costs, which ultimately improve compliance and decrease costs for companies.

Compliance with Rule 5110 imposes an undue administrative burden on broker-dealers supporting Regulation A offerings, which are generally smaller in scale than traditional public offerings. Furthermore, Rule 5110 enforces compensation limits, which can create a disadvantage for registered firms subject to rigorous compliance standards. Compensation limits currently include all fees earned by any affiliate of the broker dealer.

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<sup>14</sup> The Notice To Members NASD 92-53 ( available at <https://www.finra.org/rules-guidance/notices/92-53> ), published by FINRA's predecessor, is still being used by FINRA today to determine limits on broker dealer offering fees for all public offerings, regardless of the size. NASD 92-53 determines whether fees are fair and reasonable as required by Rule 5110(1)(a) (available at <https://www.finra.org/rules-guidance/rulebooks/finra-rules/5110> ). NASD 92-53 fee limits are based on a survey of 874 offerings filed in 1991, and the expenses incurred by companies in 1991. It caps fees for these blended services (many of which did not exist in 1991), if offered in a combined package with broker dealer services. This approach ignores 30 years of innovative changes to capital formation strategies.

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This issue becomes particularly critical in the context of crypto assets. When broker-dealers facilitate Regulation A token offerings, they operate in a complex and highly technical environment. It is essential that they are incentivized to manage as much of the infrastructure as possible to provide enhanced protections for both issuers and investors. The underlying technology is not only expensive but also challenging to maintain, necessitating fair compensation for broker-dealers. Without appropriate compensation, broker-dealers may not engage fully, potentially leading to fragmented services that compromise the overall efficacy of the offerings. By modernizing the fee structure, we can ensure that broker-dealers are equipped to deliver comprehensive solutions that support the growth of both traditional and crypto-based Regulation A offerings.

While broker dealer firms face fee restrictions, unregistered marketing agencies and promoters are not similarly constrained. This disparity incentivizes experienced brokers to leave the space, potentially leading to an influx of less experienced, unregistered entities. Investor protection is best served by specialized, regulated firms.

Broker dealers participating in Regulation A offerings should either obtain approval for a specialized Regulation A business line within their membership (similar to intermediaries in Regulation CF) or participate in a streamlined FINRA process as an alternative to Rule 5110. Broker-dealer conduct is already overseen and reviewed by regulators through many existing processes, including regular cycle exams. These existing mechanisms and frameworks should be sufficient for reviewing the compensation earned by brokers in Regulation A offerings.

The current fee review process under Rule 5110 would pose significant challenges for an anticipated increase in crypto market participants, potentially delaying crypto offerings while offerings are reviewed through the current FINRA process. Aligning the fee review process with the proposed exemptive relief for Regulation A broker-dealers would foster a more consistent and efficient regulatory environment. Broker-dealers should be exempt from compliance with the Corporate Financing Rule 5110 in Regulation A offerings for crypto offerings and more traditional offerings.

With these adjustments, Regulation A can become an even more effective and appropriately tailored pathway for compliant public offerings of crypto assets, particularly for issuers with centralized operations or those transitioning to decentralization. Any revision to Regulation A should complement a broader graduated compliance model under the Exchange Act to ensure consistent treatment

across offering and post-offering obligations.

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## II. Responses to Crypto Task Force Questions Regarding a Safe Harbor from Registration

**Question 10: Should the Commission consider a version of Rule 195, my proposed token safe harbor? Is the iteration on my proposed safe harbor known as "Safe Harbor X," or some other iteration, a better approach?**

DealMaker strongly supports the intent behind the Token Safe Harbor Proposal (the "**Safe Harbor**"), which aims to provide a clear path for entrepreneurs to cultivate decentralized networks and functional blockchain-based systems without prematurely activating the registration requirements of federal securities laws. However, we do not support an exemption for the following reasons.

While we recognize the potential of the Safe Harbor, we believe that legislation is ultimately necessary to foster the growth of the crypto asset industry, continued blockchain innovation and to ensure investor protection. Legislative solutions offer greater stability and scope compared to rules that can be subject to change. We encourage the Task Force to support lawmakers in creating a federal crypto regime that builds upon existing decade-long efforts.

This lawmaking process is already underway. The spirit of Rule 195 and the Safe Harbor is reflected in the recently introduced "Digital Asset Market Clarity (CLARITY) Act".<sup>15</sup> While this early draft of the CLARITY Act does not directly mirror Rule 195, it incorporates similar goals of providing a pathway for digital asset projects to raise capital without immediate full securities registration. Rule 195 aims to provide a three-year safe harbor for certain digital token projects from federal securities registration, allowing time for networks to develop to "maturity". The CLARITY Act achieves a similar objective through a new exemption under Section 4(a) of the '33 Act, with specific conditions. These include an offering cap, a "mature blockchain system" certification that gives projects four years to achieve maturity or decentralization, and disclosure and filing requirements with the CFTC, covering issuer details, financials, and the development plan for blockchain maturity. The CLARITY Act also includes restrictions on single purchaser ownership and disqualifications for certain issuer types. Essentially, both proposals provide a temporary, conditional exemption from immediate securities registration for early crypto asset projects aiming to mature into a decentralized network, coupled with

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<sup>15</sup> (May 29, 2025) [https://financialservices.house.gov/uploadedfiles/052925\\_clarity\\_act.pdf](https://financialservices.house.gov/uploadedfiles/052925_clarity_act.pdf)

disclosure requirements and oversight.

Similarly, both Rule 195 and the CLARITY Act raise regulatory concerns because they potentially encourage existing entrepreneurs who utilize Regulation A and Regulation CF to pivot to "token" offerings that are entirely exempt from SEC registration and many of the disclosure obligations that protect investors. For instance, if, under Rule 195 or the CLARITY Act, issuers who meet the token exemption requirements can raise the same amount that they can now raise under Regulation A over a 12 month period, in each of the 4 "transition" years, without direct SEC oversight, operators who would otherwise raise capital through traditional securities exemptions will be incentivized to launch exempt blockchains instead. The implications of failed decentralization attempts also require broader consideration: if the exempt asset is not decentralized after three or four years, requiring transition into the SEC regulated stream, what are the implications for investors? There are countless such pitfalls that have already been thought through and tested with the Regulation A and Regulation Crowdfunding regimes that have been in place over the last decade.

A fundamental concern with creating an entirely new framework is that it overlooks the significant effort and evolution that has shaped our existing regulatory regimes. Leveraging the Regulation A framework for crypto assets provides consistency for investors, who are already familiar with the established processes surrounding Regulation A and Regulation Crowdfunding. As investors educate themselves and adopt these frameworks, introducing an additional regulatory structure could lead to confusion and uncertainty. This potentially heightens investor risk, because navigating multiple frameworks may complicate decision-making and dilute the trust that has been built within the existing system.

Rather than building from scratch, we should leverage and adapt established frameworks like Regulation A and Regulation Crowdfunding. These have been tried, tested, and simplified over the last decade and can be readily tweaked to support new technologies and innovation. The core principles determining what constitutes a security are not technology-dependent. Introducing more bureaucracy and additional, complex regimes will only lead to greater confusion, increased red tape, and wasted resources. When rules become too difficult to understand and follow, compliance inevitably suffers. We risk overburdening entrepreneurs if regulations are overly complex or if they must navigate too many distinct frameworks. The focus should be on building and then simplifying; the existing regime offers that foundational simplicity.

Finally, with any proposed exemption, including by legislation, the foundational

definition of a security under the Howey test—“**investment of money in a common enterprise with an expectation of profits that results from the efforts of others**”—should remain the core determinant. Control was never part of the Howey test, and investors in public companies do not typically invest for voting rights; often non-voting stock is issued. The test is not voting; it is whether value takes its efforts from the efforts of others. When there is an investment in a common enterprise to build something, investors are investing in a security. When it becomes decentralized, it is no longer a common enterprise and it is no longer a security. Elements that signify a common enterprise include employing people on payroll, even if it's one person using AI agents, or no single investor owning more than 5%, such that benefits are fully decentralized.

It's important to note that tokenization itself does not change the nature of a security; a security remains a security regardless of the underlying technology. Nothing in law, including the Howey test, differentiates based on technology. A good analogy can be drawn here to the movement of capital raising under Regulation A from traditional paper based boardrooms, to online digital raises. The “venue” for the offering did not change the fact that a company was still conducting a Regulation A offering. However, as offerings increasingly moved online, the digital nature of the offering required adjustments to the rules or the interpretation of the rules to facilitate the use of a more efficient, faster, innovative form of capital raising (such as, the elimination of paper certificates, digital signatures and electronic road shows).

**Question 11: Should the safe harbor be available retroactively for projects that comply with the disclosure requirements?**

No, we do not believe retroactive access to the Safe Harbor should be granted. The requirements for any such safe harbor need to be clear and offerings must be properly structured from the outset to deal with them. Retroactive relief undermines this principle and could inadvertently reward companies for participating in previously unregulated activity without the necessary investor protections in place. A clear path to transition into Reg A by filing a 1A disclosure document could provide a workable path to transitioning existing companies into the SEC regime, however, there would be significantly more details to consider.

**Question 12: If a safe harbor of some form is the right approach, what disclosure requirements would be feasible for early-stage projects to provide to token purchasers the material information regarding the blockchain project, crypto assets, and development team? What information should be required to be**

## updated on an ongoing basis, and how should that information be provided?

The disclosure requirements should be no different than they are for exempt raises under Regulation A, until the token is entirely, 100% decentralized. If a Safe Harbor exemption ultimately applies, disclosure requirements should not be limited.

The Safe Harbor's current disclosure framework can be strengthened to better inform market participants. While we agree that disclosure requirements should be tailored to address the unique characteristics of different types of tokens, the focus of any disclosure threshold should be ongoing managerial efforts, but not just control.

As other commenters have noted,<sup>16</sup> creating a form for 'crypto disclosures' related to governance, incentives, token economics, and protocol design will address the risks associated with these systems. This also aligns with Coinbase's recommendations for a "flexible, risk-based disclosure regime that emphasizes project-specific information"<sup>17</sup> and a transition away from ongoing reporting with decentralization.

Notably, Regulation A provides a built in "off ramp" system for crypto tokens that ultimately become decentralized: from a disclosure perspective, if an issuer intends to exit the reporting requirements, investors need to know what that may look like, upfront. There would have to be disclosure before the exit, akin to a go-private transaction with corresponding company notifications and buyout provisions. In the case of network tokens, this disclosure would need to demonstrate that ongoing managerial efforts have been eliminated and are not required for the blockchain network to function.<sup>18</sup>

One helpful aspect of Rule 195 that should be considered for all crypto offering disclosure is the incorporation of transfer restrictions and limits on insider token sales, covered in considerable detail by other commentators.<sup>19</sup> Specifically, disclosure of "Related Persons" should include *all* parties "most likely to have access to asymmetric information ... including officers, directors, employees, consultants, advisors, promoters, underwriters, equity and security holders, as well as immediate family

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<sup>16</sup> Andreessen Horowitz, "Comments on the SEC Crypto Task Force's Questions Concerning Public Offerings and Safe Harbor from Registration" (May 1, 2025), <https://www.sec.gov/files/ctf-written-input-horowitz-050125.pdf>.

<sup>17</sup> Coinbase Global, Inc., "There Must Be Some Way Out of Here: Recommendations on the Regulation of Digital Securities Markets" (Mar. 19, 2025), <https://www.sec.gov/files/ctf-input-grewal-2025-3-19.pdf>.

<sup>18</sup> Control-based decentralization should not be the test for reduced disclosure. Even if centralized control is reduced, the test should continue to be whether managerial efforts are required for the network to function. While the nature of those managerial efforts may differ that traditional industries, the disclosure can be uniquely modelled to articulate the unique characteristics of blockchain-specific managerial efforts.

<sup>19</sup> Supra, note 15.

members of such persons... and any person who acquires 1% or more of the then outstanding units of a network token from the issuer.” We agree that, to protect investors, the ability of Related Persons to participate in secondary markets should be restricted unless certain conditions are met, similar to Rule 144: including a holding period of not less than 12 months, achieving decentralization and volume-based sales restrictions.<sup>20</sup>

Both Coinbase and Andreessen Horowitz advocate for various key categories of disclosure for “early stage” blockchain assets.<sup>21</sup> We agree that this information should be included in disclosure for these assets. In the context of a Regulation A offering, this information could easily be included in the Form 1A supplement for crypto issuers. For ease of reference, these categories would include:

- **Token issuer, related persons, and development team information:** details about the issuer's Related Persons, described above.
- **Development plan:** details to demonstrate how and at what cost decentralization will be achieved.
- **Source code and cybersecurity:** source code particular,. security breaches and audit details.
- **Token governance:** details concerning governance mechanisms, decentralization plan and transition verification.
- **Token Economics & Allocations:** information related to the token supply, distribution, holdings, release schedules, treasury limitations, retail purchaser offering limits; token rewards; mining efforts and methods to verify transaction history.
- **Additional disclosures & Insider Ownership:** Description of any material conflicts of interest and Related Party transactions.

Notably, in the context of Regulation A, this guidance on offering specific disclosure for crypto assets is no different than the guidance given to other specialized industries that conform to standard securities laws with specialized, industry specific, guidance.

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<sup>20</sup> Ibid.

<sup>21</sup> *Supra*, note 15; *Supra*, note 16.

**Question 13: At the expiration of the safe harbor as envisioned, if the network were sufficiently decentralized or functional, registration of the tokens would not be required. If decentralization is used as an indicator of network maturity, should the Commission define objective quantitative thresholds (such as percentage thresholds for ownership and control) to provide greater clarity for issuers, developers, or minters of tokens regarding whether their networks and protocols are sufficiently decentralized and to allow third parties to verify decentralization?**

If the Commission were to implement a Safe Harbour, the Commission should define objective quantitative thresholds so that stakeholders can determine when their protocols are sufficiently decentralized. While the general framework should include principles focused on, among others, control, managerial efforts should remain the paramount threshold in assessing sufficient decentralization.

**Question 13a: Is dispersion of control a better framework than decentralization? If so, how should ownership of governance tokens and voting rights be considered in assessing dispersion of control? How should the delegation of voting rights be taken into account?**

We agree with the assessment of prior commentators that, while broad distribution of token ownership and governance rights is beneficial, it is not sufficient to fully address investor protection concerns and should not, in isolation, define the framework for decentralization and exemption from federal securities laws.<sup>22</sup> Without the elimination of managerial efforts, along with operational, economic and voting control, dispersed token ownership continues to represent significant risks to investors.

**Question 13b: If an exit marker is achieved, who should be responsible for notifying the Commission?**

The issuer should be responsible for notifying the Commission once decentralization is achieved within the mandated timeframe, and ongoing managerial efforts cease.

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<sup>22</sup> *Supra* note 15, at p. 23.

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## III. Responses to Crypto Task Force Questions Regarding Tokenization

### Questions 40-46: Tokenized Securities

DealMaker recognizes the importance of a clear regulatory framework for secondary trading of crypto assets. Our experience, particularly with securities issued under Regulation A, underscores the need to re-evaluate current approaches to secondary trading.

As a starting point, we note an important comment made by our industry colleague, which we too support: In CrowdCheck's letter to the Task Force dated March 19, 2025, Sara Hanks comments that secondary trading is a key reason for utilizing tokenized securities or crypto assets.<sup>23</sup> However, the complexities of state law compliance for secondary trading can be a barrier for issuers. CrowdCheck suggests that issuers reporting under Regulation A and trading through a registered system should not be subject to state-level secondary trading requirements, and that this is an appropriate case for preemption. DealMaker agrees. Any lack of clarity around state preemption in the Regulation A space should be resolved and settled, for all issuers raising capital under Regulation A.

Andreessen Horowitz also emphasizes the importance of on-chain usability and transacting for registered crypto assets, noting the necessity for registered crypto assets to be traded on decentralized exchanges or appropriately regulated alternative trading systems. We agree that any failure to modernize these frameworks would undermine the utility and accessibility of compliant crypto assets, discouraging the use of the Regulation A registration (or any other) pathway.<sup>24</sup>

The following items should be considered to optimize secondary trading frameworks.

#### 1. Modernize the Secondary Market for Digital Securities

For a robust and liquid secondary market for digital securities, the Commission should:

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<sup>23</sup> *Supra* note 11.

<sup>24</sup> *Supra* note 15.

- **Provide Clear Regulatory Guidelines for Secondary Trading Venues:** Whether traditional exchanges or decentralized platforms, the regulatory treatment of these venues needs to be clearly defined. This clarity is essential for fostering compliant and efficient trading and will instill confidence among issuers and investors.
- **Address Jurisdictional Overlaps and Consider Federal Preemption:** The current fragmented landscape of state laws creates significant compliance burdens and regulatory uncertainty. Adopting federal preemption, as discussed above, would streamline the process, reduce costs, and encourage broader adoption of compliant offerings. A unified approach is vital for national market efficiency.<sup>25</sup>
- **Facilitate On-Chain Transactions and Utility:** The regulatory framework should actively enable, rather than impede, the inherent capabilities of blockchain technology for efficient and transparent transfers. As Andresson Horowitz has highlighted, leveraging on-chain functionality is key to unlocking the full potential of digital assets.<sup>26</sup>
- **Embrace Decentralized Ledgers To Enhance Efficiency And Investor Protection:** Decentralized smart contracts<sup>27</sup> operate without the need for a central authority or human intervention, automatically enforcing rules and transfer restrictions based on pre-defined conditions. These decentralized networks offer an improvement over traditional centralized ledgers that rely on the integrity and accuracy of human operators, leaving asset management and transfers unnecessarily vulnerable to errors or manipulation.
- **Recognize the Unique Characteristics of Tokenized Securities:** As stated above, creating a digital representation of a security on a blockchain or issuing a security directly on a blockchain does not alter the fundamental nature of the security. However, it can significantly benefit issuers and investors, particularly concerning secondary trading, clearance, and settlement. This distinction is not yet widely understood by potential issuers or investors, and the Commission should emphasize it to promote greater clarity and adoption.<sup>28</sup>

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<sup>25</sup> *Supra* note 11.

<sup>26</sup> *Supra* note 15.

<sup>27</sup> Self-executing agreements with the terms written into the code on a blockchain.

<sup>28</sup> *Supra*, note 11.

## **2. Enhance ATS Access & Uncap Regulation A**

Issuers should not be required to conduct individual state filings when securities are traded on an Alternative Trading System (ATS). This streamlining would allow ATSs and over-the-counter markets to operate more effectively, contributing to smoother capital market operations and providing equal trading capabilities for all alternative investment vehicles.

Removing the arbitrary ceiling on Regulation A would also enable a wider array of companies to access public capital, fostering greater liquidity and innovation across the market.

## **3. Simplifying Blockchain Integration for Transfer Agents**

Current regulations inadvertently hinder transfer agents from maintaining securities on a blockchain-based central ledger. Registered transfer agents should be empowered to meet their record-keeping requirements using the most efficient and secure technology available, including blockchain. This would allow transfer agents to maintain a single, verifiable record on a blockchain, significantly enhancing the efficiency of trading, clearance, and settlement processes as well as intra-operability within a tokenized ecosystem where exchanges and secondary platforms can tokenize securities, and transfer agents can seamlessly integrate to automatically update centralized registers on a blockchain. We believe these proposed adjustments are essential for fostering a vibrant, efficient, and inclusive digital asset market that benefits both companies and investors. A modernized and harmonized approach to secondary trading is crucial for realizing the potential of crypto assets within a regulated environment, ensuring both market efficiency and investor protection.

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## **IV. Conclusion**

DealMaker appreciates the opportunity to provide comments on these critical matters. We believe that a flexible, principles-based approach to modernizing existing rules will allow the Commission to create a workable and durable regulatory environment for

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crypto assets, that will harmonize the existing rules with future technology developments, creating the most certainty in the market. Simple, clear and consistent rules is what allows the capital markets to flourish and technological advancement to occur.

This common-sense approach will give all investors the ability to seek exposure to a growing and important asset class, while still providing the investor protections afforded to registered funds. As Commissioner Paul Atkins said, “Financial innovation sometimes means getting out of the way of capital formation and **allowing all investors** to gain the benefits of our robust markets.”<sup>29</sup>

Respectfully submitted,

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<sup>29</sup> Paul S. Atkins, Chairman, *Prepared Remarks Before SEC Speaks* (May 19, 2025)  
<https://www.sec.gov/newsroom/speeches-statements/atkins-prepared-remarks-sec-speaks-051925>