



Via Electronic Mail and Overnight Mail

Brett Harrison, Individually and as President of FTX US
Dan Friedberg, Chief Regulatory Officer of FTX US
FTX US
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August 18, 2022

RE: Potential Violations of Section 18(a)(4) of the Federal Deposit Insurance Act

Messrs. Harrison and Friedberg,

The Federal Deposit Insurance Corporation (FDIC) has reason to believe that FTX US, and its related entities, by and through their officers, directors, or employees (collectively referred to herein as “FTX US”), have made false and misleading statements, directly or by implication, concerning FTX US’s deposit insurance status, in violation of section 18(a)(4) of the Federal Deposit Insurance Act (FDI Act), 12 U.S.C. § 1828(a)(4), and its implementing regulation, 12 C.F.R. Part 328, Subpart B (Part 328). We hereby demand that you cease and desist, and take immediate corrective action to address these false and misleading statements, as more fully set forth below.

Section 18(a)(4) of the FDI Act, 12 U.S.C. § 1828(a)(4), and Part 328 prohibit any person from using the FDIC’s name or logo, or similar terms, to represent or imply that an uninsured deposit liability, obligation, certificate, or share is insured, or from knowingly misrepresenting the extent and manner in which a deposit liability, obligation, certificate or share is insured under the FDI Act. Further, Part 328 requires that whenever anyone other than an insured depository institution states that a product is insured by the FDIC, that person must identify the insured depository institution(s) where the funds will be placed, and failure to do so constitutes a material omission in violation of Section 18(a)(4) of the FDI Act and Part 328. The FDIC has the authority to enforce these provisions against any person or entity. Enforcement tools available to the FDIC include the authority to issue cease-and-desist orders and to assess civil money penalties for violations of Section 18(a)(4) and Part 328.

It appears that on July 20, 2022, Mr. Harrison published a tweet on the Twitter account, “@Brett_FTX,” which stated, among other things, “direct deposits from employers to FTX US are stored in individually FDIC-insured bank accounts in the users’ names,” and “stocks are held in FDIC-insured and SIPC-insured brokerage accounts.” FTX is also identified as an “FDIC-insured” cryptocurrency exchange on the SmartAsset website, <https://smartasset.com/investing/list-of-fdic-insured-cryptocurrency-exchanges>, and the CryptoSec.Info website, <https://cryptosec.info/fdic>.

These statements appear to contain false and misleading representations that uninsured products are insured by the FDIC, as well as false and misleading statements about the extent and manner of protection provided by FDIC deposit insurance and misuse the FDIC’s name. These false and misleading statements represent or imply that FTX US is FDIC-insured, that funds deposited with FTX US are placed, and at all times remain, in accounts at unnamed FDIC-insured banks, that brokerage accounts at FTX US are FDIC-insured, and that FDIC insurance is

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available for cryptocurrency or stocks. In fact, FTX US is not FDIC-insured, the FDIC does not insure any brokerage accounts, and FDIC insurance does not cover stocks or cryptocurrency. The FDIC only insures deposits held in insured banks and savings associations (insured institutions), and FDIC insurance only protects against losses caused by the failure of insured institutions. Accordingly, these statements are likely to mislead, and potentially harm consumers.

Additionally, the statement regarding the direct deposit of funds into “individually FDIC-insured bank accounts” fails to identify the bank(s) with which FTX has a direct or indirect relationship for the placement of deposits and into which such consumers’ funds may be deposited. Failure to identify the insured bank(s) into which customers’ funds will be deposited is deemed a material omission pursuant to 12 C.F.R. 328.102(b)(5).

Based on the information available to the FDIC, it appears that these statements regarding deposit insurance violate Section 18(a)(4) of the FDI Act and Part 328. Consequently, the FDIC hereby demands the following corrective action:

1. You shall immediately remove any and all statements, representations, or references that suggest in any way, explicitly or implicitly, that: (a) FTX US is FDIC-insured; (b) any FTX US brokerage accounts are FDIC-insured; (c) any funds held in cryptocurrency or other financial products such as stocks, bonds, money market mutual funds, other types of securities or commodities are or can be protected by FDIC insurance; or (d) FDIC insurance provides protection or coverage in any manner or extent other than those set forth in the FDI Act from the Twitter account “@Brett_FTX,” as well as any websites (including any pop-ups, hyperlinks, or chatbots), and any other Twitter and any other social media platforms (including both corporate accounts and personal accounts of senior management of FTX US), mobile app, online outlet, and any other form (electronic or hard copy) of marketing, advertising or other consumer-facing publication or materials of any kind that you control.
2. You shall cease and desist from making any statements, representations, or references, directly or through your owners, officers, directors, or employees, that suggest in any way, explicitly or implicitly, that: (a) FTX US is FDIC-insured; (b) any FTX US brokerage accounts are FDIC-insured; (c) any funds held in cryptocurrency or other financial products such as stocks, bonds, money market mutual funds, other types of securities or commodities are or can be protected by FDIC insurance; or (d) FDIC insurance provides protection or coverage in any manner or extent other than those set forth in the FDI Act.
3. Within fifteen (15) business days of receipt of this letter, you shall provide written confirmation to the FDIC that FTX US has fully complied with the requests set forth above. Such confirmation shall detail all efforts that were undertaken to comply with this letter, including all efforts to identify and locate all misrepresentations and the scope of the removal of such material.

If you believe that the statements that FTX US has made, individually or through its owners, officers, or directors, regarding the availability of FDIC deposit insurance are true and accurate, please provide a full listing of all such statements about deposit insurance on any medium or platform, together with information and documentation supporting the accuracy of all such statements, not later than fifteen (15) days from the date of this letter.

Failure to respond to this letter may result in the FDIC taking appropriate action as authorized by the Federal Deposit Insurance Act and any other applicable law or regulation.

Should you have any questions about the contents of this letter, please contact the undersigned.

Sincerely,



Seth P. Rosebrock
Assistant General Counsel, Enforcement
Federal Deposit Insurance Corporation