

Via Overnight Mail

June 15, 2023

Hong Fang, Chief Executive Officer
OKCoin USA Inc.
One Sansome St, Suite 3500
San Francisco, CA 94104
compliance_usa@okcoin.com
support@okcoin.com

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

Dear Ms. Fang:

The Federal Deposit Insurance Corporation (“FDIC”) has reason to believe that OKCoin USA Inc. (“OKCoin”) and its senior executives have made false and misleading statements, directly or by implication, concerning OKCoin’s insured status, in violation of section 18(a)(4) of the Federal Deposit Insurance Act (“FDI Act”), 12 U.S.C. § 1828(a)(4) (“Section 18(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.

Provisions in the FDI Act, Section 18(a)(4), and its implementing regulation, Part 328, prohibit any person from representing that an uninsured deposit is insured or from knowingly misrepresenting the extent and manner in which a deposit or certificate is insured under the FDI Act, whether by making affirmative statements or by omitting material information. Under Part 328, no person may represent or imply that any uninsured financial product is insured or guaranteed by the FDIC as part of an advertisement, solicitation, or other publication or dissemination. 12 C.F.R. 328.102(a)(2). Further, pursuant to Part 328, a statement regarding deposit insurance would be deemed to omit material information if the absence of such information could result in a reasonable consumer being unable to understand the extent or manner of deposit insurance provided. See generally 12 C.F.R. 328.102. 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. See 12 C.F.R. 328.104-107.

Misrepresentations regarding the insured-status of OKCoin and the extent or manner of FDIC insurance appear on OKCoin’s website and a social media post. For example:

- OKCoin advertises that it is “Licensed across the US with FDIC insurance on OKCoin accounts” as one of “10 Reasons to Use OKCoin Crypto Exchange” and asserts “OKCoin provides FDIC insurance for all USD deposits.” See <https://blog.okcoin.com/10-reasons-to-use-okcoin-crypto-exchange/> (emphasis added).

Legal Division
550 17th Street NW, Washington, D.C. 20429-9990

- OKCoin advertises that a particular blockchain available from OKCoin has “received broad regulatory acceptance from . . . the FDIC.” See <https://go.okcoin.com/hash> (“Provenance Blockchain and its utility token” HASH has “received broad regulatory acceptance from the SEC, OCC, FED, and the FDIC”).
- The Chief Marketing Officer of OKCoin and your affiliated exchange, OKX, has made a social media post on Twitter: “if you are in the US we offer FDIC insurance on USD deposits[.]” See <https://mobile.twitter.com/OKCoin/status/1338926376401989633>.

These statements appear to contain false and misleading representations regarding FDIC deposit insurance. For example, statements that OKCoin is licensed “across the US with FDIC insurance on OKCoin accounts”, “OKCoin provides FDIC insurance for all USD deposits”, “we offer FDIC insurance on USD deposits”, and a particular blockchain has “received broad regulatory acceptance from . . . the FDIC” imply and suggest that OKCoin is itself FDIC-insured, that funds deposited with OKCoin will be insured by the FDIC, that FDIC insurance applies to non-deposit products, and that the FDIC insures or otherwise endorses a particular blockchain. In fact, OKCoin is not FDIC-insured and the FDIC does not insure non-deposit products. By not distinguishing between US-dollar deposits and crypto assets, the statements imply FDIC insurance coverage applies to all customer funds (including crypto assets). In addition, the FDIC does not insure or endorse particular blockchains. Accordingly, these statements are likely to mislead, and potentially harm, consumers.

Additionally, as noted above, in some instances, OKCoin has made claims about FDIC deposit insurance without identifying any IDI with which it has a direct or indirect relationship for the placement of deposits and into which such consumers’ funds may be deposited. For example, within OKCoin’s Terms of Service, OKCoin discloses that “the U.S. dollar funds in your account are placed by OKCoin in one or more custodial accounts at one or more FDIC-insured banks for the benefit of its customers, with the intention that the customers be eligible for pass-through FDIC deposit insurance.” See <https://support.okcoin.com/hc/en-us/articles/360059514492-Terms-of-Service>. The disclosure, however, fails to identify the IDIs into which consumers’ funds may be deposited, which could cause a reasonable consumer to be misled as to the manner or extent of deposit insurance provided.

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 (1) OKCoin is FDIC-insured, (2) FDIC insurance applies to non-deposit products, (3) the FDIC has accepted or endorsed any particular blockchain, or (4) FDIC insurance provides protection or coverage in any manner or extent other than those set forth in the FDI Act. Such statements shall be removed from OKCoin’s app and website pages (including any pop-ups, hyperlinks, or chatbots), and any social media platforms (including both corporate accounts and personal accounts of individuals associated with OKCoin), 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, including any publication or materials in any other language.
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 (1) OKCoin is FDIC-insured, (2) FDIC insurance applies to non-deposit products, (3) the FDIC has accepted or endorsed any particular blockchain, or (4) FDIC insurance provides protection or coverage in any manner or extent other than those set forth in the FDI Act. To address the misrepresentations that OKCoin is itself is an FDIC-insured entity, you should identify the IDI with which you have a relationship for the placement of deposits in close proximity to the misrepresentations identified above.

3. Within fifteen (15) business days of receipt of this letter, you shall provide written confirmation to the FDIC that you have fully complied with the requests set forth above. Such confirmation shall detail all efforts that you took to comply with this letter, including all efforts to identify and locate all misrepresentations and the specific actions you took.

If you believe that the statements identified above regarding the availability of FDIC deposit insurance are true and accurate, please provide a full listing of all such statements 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 FDI Act and any other applicable law or regulation.

This letter constitutes an advisory letter within the meaning of 12 C.F.R. § 328.106. Accordingly, pursuant to 12 C.F.R. § 328.102(b)(6), future false or misleading representations regarding deposit insurance may be deemed to have been knowingly made.

Finally, this letter is intended to address only potential violations of Section 18(a)(4) and Part 328. Your response to this matter may or may not affect our conclusions as to those violations, and does not preclude the FDIC from taking any further action, as appropriate, with respect to the foregoing or any other violations of laws or regulations. Moreover, nothing in this matter bars or estops any other federal or state agency from investigating, or pursuing actions for, violations of other laws and regulations.

Should you have any questions about the contents of this letter, please contact [REDACTED] at [REDACTED] or [REDACTED]@fdic.gov.

Sincerely,

/s/

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