



Via Electronic Mail

January 19, 2024

BybitcoinEx, Inc.
support@bybitcoinEx.com
BybitcoinEx@gmail.com

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

To Whom It May Concern:

The Federal Deposit Insurance Corporation (“FDIC”) has reason to believe that BybitcoinEx, Inc. (“BybitcoinEx”) has made false and misleading statements, directly or by implication, concerning BybitcoinEx’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 actions to address these false and misleading statements, as more fully set forth below.

Section 18(a)(4) and Part 328 prohibit any person from representing that an uninsured financial product is insured or knowingly misrepresenting the extent or manner in which a deposit or obligation 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). 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(b). For example, it is a material omission for a non-insured entity that advertises deposit insurance to fail to identify the insured depository institution (IDI) with which the representing party has a direct or indirect business relationship for the placement of deposits and into which the consumer’s deposits may be placed. 12 C.F.R. § 328.102(b)(5). 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.

Certain statements by BybitcoinEx, which appeared on BybitcoinEx’s websites, <https://bybitcoinexs.com> and <https://www.bybitcoinpro.com>, and other media, have come to the attention of the FDIC as containing apparent misrepresentations about FDIC deposit insurance. These statements include, but are not limited to, the following:

- “All dollar cash balances covered by FDIC insurance, up to 250000 dollars.” *See* <https://bybitcoinexs.com> and <https://www.bybitcoinpro.com/#/index>.

The statement highlighted above appears to represent or imply that BybitcoinEx is FDIC-insured and that FDIC deposit insurance would protect consumers in the event that BybitcoinEx becomes insolvent. In

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fact, FDIC only insures funds in deposit accounts at an FDIC-insured bank in the event of the insured bank's failure. Accordingly, BybitcoinEx's statements misrepresent the extent or manner of deposit insurance by implying BybitcoinEx itself is FDIC-insured, in violation of Section 18(a)(4) and Part 328.

Furthermore, BybitcoinEx's representations regarding the availability of FDIC deposit insurance fails to identify the IDI(s) into which consumers' deposits may be placed. Because the name of the IDI into which consumers' funds may be placed is necessary for a consumer to understand the extent or manner of deposit insurance provided, the absence of such information from the statement is a material omission and thus the statements violate Part 328.

To the extent that BybitcoinEx does not have a relationship with an IDI through which customers can have deposit insurance, the deposit insurance representation on the BybitcoinEx website is false and misleading. In that case, Bybitcoin has represented that customer funds are FDIC-insured when they are not and has violated Part 328.

Aside from apparent misrepresentations about deposit insurance, the website makes other claims that appear to misrepresent the status of BybitcoinEx. For example, BybitcoinEx's website includes a claim that Bybitcoin is "the world's largest cryptocurrency exchange platform" and that it is "incorporated under the New York federal laws." As no such entity appears in the New York Secretary of State database of corporate entities, this claim appears to be false.

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

1. You shall immediately remove any and all statements, representations, or references that suggest in any way, explicitly or implicitly, that: (a) BybitcoinEx is FDIC-insured; (b) FDIC insurance is available for uninsured financial products; (c) FDIC deposit insurance may provide coverage for any event other than the failure of an IDI; or (d) FDIC deposit insurance provides protection or coverage in any manner or extent other than those set forth in the FDI Act, from the BybitcoinEx website (including any blog posts, pop-ups, hyperlinks, or chatbots) and any other related websites operated by BybitcoinEx, any social media platforms (including corporate accounts and personal accounts of senior management of BybitcoinEx and any paid advertisement on these platforms), the mobile app, online outlet, and any other forms (electronic or hard copy) of marketing, advertising, or other consumer-facing publications.
2. You shall cease and desist from making any statements, representations, or references that suggest in any way, explicitly or implicitly, that: (a) BybitcoinEx is FDIC-insured; (b) FDIC insurance is available for uninsured financial products; (c) FDIC deposit insurance may provide coverage for any event other than the failure of an IDI; or (d) FDIC deposit insurance provides protection or coverage in any manner or extent other than those set forth in the FDI Act, from the BybitcoinEx website (including any blog posts, pop-ups, hyperlinks, or chatbots) and any other related websites operated by BybitcoinEx, any social media platforms (including both corporate accounts and personal accounts of senior management of BybitcoinEx and any paid advertisement on these platforms), the mobile app, online outlet, and any other forms (electronic or hard copy) of marketing, advertising, or other consumer-facing publications.

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

If you believe that any statement BybitcoinEx or its officers have made related to FDIC deposit insurance is true and accurate, please provide a full listing of all such statements about deposit insurance on any medium or platform, which you allege to be true and accurate, together with information and documentation supporting the basis for your belief in the accuracy of all such statements, no later than fifteen (15) days from the date of this letter.

Failure to timely 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. Be advised that this letter is intended to address only potential violations of Section 18(a)(4) and Part 328, as described above. Your response to this matter may or may not affect our conclusions as to the potential violations identified above, 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.

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), continuing and/or future false or misleading deposit insurance representations may be deemed to have been knowingly made.

The FDIC has jurisdiction to enforce violations of the FDI Act and Part 328. This letter does not confirm or otherwise suggest the legitimacy of BybitcoinEx's website or business. If a consumer has a complaint about the website other than violations of the FDI Act, consumers may contact the Federal Trade Commission or other appropriate agencies.

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

Sincerely,

/s/

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