Federal Deposit Insurance Corporation
350 Fifth Avenue, Suite 1200
New York, New York 10118

New York Regional Office

October 4, 2021

Via secure email

[redacted]
Chairman and CEO
[redacted]

Subject: Potential Cryptocurrency Activities outlined in May 25, 2021 *Cryptocurrency Discussion Presentation* materials and discussed in the July 20, 2021 correspondence from [redacted]

Dear [redacted]:

New York Regional Office (NYRO) staff reviewed the May 25, 2021 *Cryptocurrency Discussion Presentation* materials (Crypto Presentation) and the July 20, 2021 letter from [redacted] Letter) regarding certain cryptocurrency related products and services (Crypto Products) being considered by [redacted]). The [redacted] Letter states that, in their view, the Crypto Products are permissible for a national bank and therefore permissible for a state-chartered bank such as [redacted]. As a result, the [redacted] Letter states that no Part 362 application is required. The Crypto Products specifically listed are:

(i) warehouse loans to cryptocurrency providers collateralized by cryptocurrencies;
(ii) merchant acquiring services involving cryptocurrencies (merchant clients would be able to accept designated cryptocurrencies from customers engaged in electronic commerce transactions);
(iii) cryptocurrency custody services for [redacted] customers;
(iv) staking and exchanging services for certain cryptocurrencies by [redacted] accountholders; and
(v) [redacted] stablecoin.

In our review of the Crypto Presentation and the [redacted] Letter, NYRO staff found only very high-level descriptions of Crypto Products under consideration by [redacted]. These descriptions were not sufficiently detailed to reach any conclusions on whether the Crypto Products, if and when offered by [redacted], would fall within the scope of the Interpretive Letters and Conditional Approvals referenced in the Crypto Presentation and the [redacted] Letter. As a result, NYRO staff cannot confirm that the Crypto Products being considered are permissible or that no Part 362 application is required.

As you may be aware, the Acting Comptroller of the Currency, Michael Hsu, has requested that his staff review these Interpretive Letters and Conditional Approvals. The Office of the

Comptroller of the Currency (OCC) has not yet indicated what, if any, changes will be made to these Interpretive Letters and Conditional Approvals and, therefore, what ultimately will be permissible for a national bank in connection with the Crypto Products and other products and services related to cryptocurrency. This area continues to evolve, and [redacted] should keep itself apprised of developments. Additionally, if an activity or investment has been deemed permissible for a national bank (or its subsidiary) but is subject to certain conditions or restrictions imposed by the OCC, a state-chartered bank must also abide by those conditions or restrictions if it wishes to engage in the activity or investment without first obtaining the FDIC's consent through the process outlined in Part 362 of the FDIC Rules and Regulations.[1]

Neither the Crypto Presentation nor the [redacted] Letter indicated whether the Crypto Products were permissible or authorized under applicable [redacted] laws and regulations or whether the views of the [redacted] had been sought with respect to the Crypto Products. Any activity engaged in by [redacted] must be permissible under the laws and regulations of [redacted], and [redacted]s views should be solicited. Once obtained, please share [redacted]'s view with the NYRO.

Finally, and as noted in the [redacted] Letter, [redacted] must have "appropriate risk management practices to ensure the activities are conducted on a safe and sound basis" in place prior to offering any of the Crypto Products. Commensurate risk management practices are a critical aspect to entering into any new product or service. As you are aware, these risk management practices must ensure compliance with all applicable laws and regulations, such as the Bank Secrecy Act and those protecting consumers.

[redacted] has stated its intention of sharing plans related to the Crypto Products with the regulators. We look forward to further conversations and to the receipt of any planning documentation related to the Crypto Products well in advance of any proposed implementation.

Should you have any questions regarding this letter please contact Senior Case Manager [redacted]

Sincerely,
Jessica A. Kaemingk
Deputy Regional Director

cc: [redacted]

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[1] *See* Financial Institution Letter: Filing and Documentation Procedures for State Banks Engaging, Directly or Indirectly, in Activities or Investments That Are Permissible for National Banks, FIL-54-2014 (November 19, 2014); and 12 C.F.R. Part 362.