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*Proposed Attorneys for Debtors and
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In re:

BLOCKFI INC., *et al.*,

Debtors.¹

BLOCKFI INC., BLOCKFI LENDING LLC AND
BLOCKFI INTERNATIONAL LLC,

Plaintiffs,

-against-

EMERGENT FIDELITY TECHNOLOGIES LTD.
AND ED&F MAN CAPITAL MARKETS, INC.,

Defendants.

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

Case No. 22-19361 (MBK)

(Joint Administration Requested)

Chapter 11

Adv. Pro. No. 22-01382 (MBK)

**NOTICE OF DEBTORS' MOTION FOR ENTRY OF AN ORDER PURSUANT TO
SECTIONS 105(a), 542, AND 543 OF THE BANKRUPTCY CODE (I) DIRECTING
THE COLLATERAL BE TRANSFERRED TO A NEUTRAL BROKER OR
ESCROW UNDER THE COURT'S SUPERVISION OR (II) ENJOINING THE
DEFENDANTS FROM TRANSFERRING OR USING THE COLLATERAL
PENDING FINAL RESOLUTION OF THE TURNOVER CLAIMS**

¹ The Debtors in these chapter 11 cases (the "Debtors"), along with the last four digits of each Debtor's federal tax identification number, are: BlockFi Inc. (0015); BlockFi Trading LLC (2487); BlockFi Lending LLC (5017); BlockFi Wallet LLC (3231); BlockFi Ventures LLC (9937); BlockFi International Ltd. (N/A); BlockFi Investment Products LLC (2422); BlockFi Services, Inc. (5965) and BlockFi Lending II LLC (0154). The location of the Debtors' service address is 201 Montgomery Street, Suite 263, Jersey City, NJ 07302.

PLEASE TAKE NOTICE that on January 5, 2023 at 10:00 a.m. (EST), or as soon thereafter as counsel may be heard, plaintiffs BLOCKFI INC. ("BlockFi Inc."), BlockFi Lending LLC ("BlockFi Lending") and BlockFi International LLC ("BlockFi International") and together with BlockFi Inc. and BlockFi Lending, "BlockFi", by and through its attorneys undersigned counsel, shall move before the Honorable Michael B. Kaplan, United States Bankruptcy Judge, in Courtroom 8 of the United States Bankruptcy Court for the District of New Jersey, 402 East State Street, Trenton, New Jersey 08608, for entry of an order, substantially in the form submitted herewith, granting BlockFi's motion (the "Motion") either (a) directing Emergent Fidelity Technologies LTD. ("Emergent") and ED&F Man Capital Markets Inc. ("EDFM") and together with Emergent, the "Defendants") to transfer the collateral to a neutral broker or escrow under the Court's supervision or (b) alternatively, enjoining the transfer or use of the collateral pending the resolution of the Adversary Proceeding.

PLEASE TAKE FURTHER NOTICE that in addition to the accompanying Memorandum of Law, BlockFi shall rely on the declarations of Zachary Prince and Richard D. Anigian, which set forth the factual bases upon which the relief requested should be granted. A proposed Order is also submitted herewith.

PLEASE TAKE FURTHER NOTICE that objections, if any, to the relief requested in the Motion shall: (a) be in writing; (b) state with particularity the basis of the objection; and (c) be filed with the Clerk of the United States Bankruptcy Court electronically by attorneys who regularly practice before the Bankruptcy Court in accordance with the General Order Regarding Electronic Means for Filing, Signing, and Verification of Documents dated March 27, 2002 (the "General Order") and the Commentary Supplementing Administrative Procedures dated as of March 2004 (the "Supplemental Commentary") (the General Order, the Supplemental

Commentary and the User's Manual for the Electronic Case Filing System can be found at www.njb.uscourts.gov, the official website for the Bankruptcy Court) and, by all other parties-in-interest, on CD-ROM in Portable Document Format (PDF), and shall be served in accordance with the General Order and the Supplemental Commentary, so as to be received no later than seven (7) days before the hearing date set forth above.

PLEASE TAKE FURTHER NOTICE that unless objections are timely filed and served, the Motion shall be decided on the papers in accordance with D.N.J. LBR 9013-3(d), and the relief requested may be granted without further notice or hearing.

PLEASE TAKE FURTHER NOTICE that the undersigned requests oral argument on the return date of the Motion if objections are timely filed.

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Dated: November 28, 2022

/s/ Michael D. Sirota

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THE BANKRUPTCY CODE (I) DIRECTING THE COLLATERAL BE
TRANSFERRED TO A NEUTRAL BROKER OR ESCROW UNDER THE
COURT'S SUPERVISION OR (II) ENJOINING THE DEFENDANTS FROM
TRANSFERRING OR USING THE COLLATERAL PENDING FINAL
RESOLUTION OF THE TURNOVER CLAIMS**

¹ The Debtors in these chapter 11 cases (the "Debtors"), along with the last four digits of each Debtor's federal tax identification number, are: BlockFi Inc. (0015); BlockFi Trading LLC (2487); BlockFi Lending LLC (5017); BlockFi Wallet LLC (3231); BlockFi Ventures LLC (9937); BlockFi International Ltd. (N/A); BlockFi Investment Products LLC (2422); BlockFi Services, Inc. (5965) and BlockFi Lending II LLC (0154). The location of the Debtors' service address is 201 Montgomery Street, Suite 263, Jersey City, NJ 07302.

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Plaintiffs BLOCKFI INC. (“BlockFi Inc.”), BlockFi Lending LLC (“BlockFi Lending”) and BlockFi International LLC (“BlockFi International” and together with BlockFi Inc. and BlockFi Lending, “BlockFi”), file this memorandum of law in support of the *Debtors’ Motion for Entry of an Order Pursuant to Sections 105(a), 542, and 543 of the Bankruptcy Code (I) Directing the Collateral be Transferred to a Neutral Broker or Escrow under the Court’s Supervision or (II) Enjoining the Defendants from Transferring or Using the Collateral Pending Final Resolution of the Turnover Claims* (the “Motion”) for an order either (a) directing Emergent Fidelity Technologies LTD. (“Emergent”) and ED&F Man Capital Markets Inc. (“EDFM” and together with Emergent, the “Defendants”) to transfer the collateral to a neutral broker or escrow under the Court’s supervision or (b) alternatively, enjoining the transfer or use of the collateral pending resolution of the Adversary Proceeding and respectfully states as follows:

I. PRELIMINARY STATEMENT¹

1. BlockFi seeks to recover certain Collateral which is property of the BlockFi bankruptcy estates and was pledged to secure Emergent’s obligations to BlockFi (the “Collateral”). Emergent has defaulted on its obligations under the Pledge Agreement and has failed to satisfy its obligations thereunder despite written notice of default and acceleration. EDFM, as the custodial agent under the Pledge Agreement, has custody of the Collateral. BlockFi demanded that EDFM transfer the Collateral to BlockFi prior to the filing of the above-captioned chapter 11 cases (the “Chapter 11 Cases”). EDFM has, as of the filing of the Motion, failed and refused to do so. BlockFi filed the above-captioned adversary proceeding (this “Adversary Proceeding”) seeking, among other things, an order compelling the Defendants to turn over the Collateral pursuant to

¹ Capitalized terms used but not immediately defined shall have the meanings ascribed to them below.

sections 105(a), 542, and 543 of title 11 of the United States Code (the “Bankruptcy Code”) and the Pledge Agreement.

2. While BlockFi seeks turnover in the Adversary Proceeding, BlockFi only seeks preliminary relief here to preserve the Collateral pending final resolution of this Adversary Proceeding. Specifically, BlockFi seeks an order (a) directing the Defendants to transfer the Collateral to a neutral broker or escrow under the Court’s supervision or (b) alternatively, enjoining the transfer or use of the Collateral pending the Court’s resolution of the Adversary Proceeding.

II. JURISDICTION AND VENUE

3. This Court has jurisdiction over this adversary proceeding and the Motion pursuant to 28 U.S.C. § 1334 and *In the matter of: Standing Order of Reference to Bankruptcy Court under Title 11*, Standing Order of Reference 12-1, dated September 18, 2012. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Pursuant to Rule 7008 of the Federal Rules of Bankruptcy Procedure, BlockFi consents to the entry of final orders or a final judgment by this Court in this adversary proceeding. Venue is proper before this court before pursuant to 28 U. S. C. §§ 1391(3)(c), 1408 and 1409.

4. The statutory predicates for the relief requested herein are sections 105(a), 542, and 543 of the Bankruptcy Code.

III. SUMMARY OF THE ARGUMENT

5. BlockFi is entitled to use and possession of the Collateral under the Pledge Agreement because Emergent defaulted on its obligations thereunder and failed to cure the default. Yet EDFM—Emergent’s broker who has possession, custody, and/or control of the Collateral—has refused to deliver the Collateral to BlockFi. Thus, BlockFi has no option but to seek the relief requested in the Motion.

6. The Collateral is property of the BlockFi bankruptcy estates and is valuable and beneficial to the BlockFi bankruptcy estates. EDFM, therefore, should turn over the Collateral to BlockFi pursuant to section 542 of the Bankruptcy Code.² Emergent is also required to deliver the Collateral because its obligations under the Pledge Agreement are presently due and payable.

7. Alternatively, EDFM is required to turn over the Collateral to BlockFi pursuant to section 543 of the Bankruptcy Code to the extent it is a custodian of the Collateral.

8. Section 105(a) of the Bankruptcy Code provides authority for this Court to enter an order (a) directing the Defendants to transfer the Collateral to a neutral broker or escrow under the Court's supervision or (b) alternatively, enjoining the transfer or use of the Collateral pending the resolution of the Adversary Proceeding. Accordingly, BlockFi seeks such an order by the Motion.

IV. FACTUAL BACKGROUND

A. The Pledge Agreement and the Forbearance Agreement.

9. BlockFi entered into a pledge agreement with Emergent as of November 9, 2022 (the "Pledge Agreement"). The Pledge Agreement was given in consideration for BlockFi Lending and BlockFi International entering into an Amendment & Forbearance Agreement also dated November 9, 2022 (the "Forbearance Agreement").

10. Under the Forbearance Agreement, BlockFi Lending and BlockFi International agreed to forbear from exercising certain rights and remedies then available to them under various loan documents as a result of multiple events of default. BlockFi Lending and BlockFi International also agreed to extend certain payment obligations, provided the borrower complied

² BlockFi believes all of the Collateral is currently in the possession, custody, and/or control of EDFM. Accordingly, BlockFi focuses on EDFM's requirement to turn over the Collateral. However, EDFM has not confirmed the full value or amount of the Collateral under its control. If, in fact, Emergent retains some control over the Collateral, BlockFi seeks similar relief for Emergent to turn over the Collateral to BlockFi.

with its obligations under the Forbearance Agreement, including making timely payments in accordance with a payment schedule described therein.

11. Emergent acknowledged it would receive a direct or indirect benefit from BlockFi entering into the Forbearance Agreement.

12. Under the Pledge Agreement, Emergent absolutely, unconditionally, and irrevocably guaranteed the payment obligations of the borrower under the Forbearance Agreement. Emergent's guaranty was secured by a first priority security interest—in favor of BlockFi—in all of Emergent's rights, titles, and interests in, among other things, the Collateral which includes certain shares of common stock. The Collateral has value to the BlockFi bankruptcy estates.

13. Emergent was required to deliver all Collateral to BlockFi Inc. pursuant to the terms of the Pledge Agreement.

B. EDFM refused to transfer the Collateral to BlockFi after the event of default.

14. Emergent breached the Pledge Agreement by, among other things, failing to satisfy its payment obligations and to promptly deliver the Collateral to BlockFi Inc. BlockFi Inc. has otherwise perfected its security interest in the Collateral through the filing of a UCC-1 Financing Statement.

15. On November 10, 2022, BlockFi Lending and BlockFi International notified Emergent that the forbearance period had ended due to an event of default, including borrower's failure to timely make a required payment in accordance with the payment schedule, and that all obligations were immediately due and payable. See **Exhibit A-1**. As a result of the event of default, Emergent was notified that all obligations under the Pledge Agreement were immediately due and payable and that BlockFi Lending and BlockFi International intended to exercise all

remedies available to them under the Pledge Agreement, including the sale of all or any part of the Collateral.

16. In the Pledge Agreement, Emergent granted BlockFi a power of attorney to act as its true and lawful attorney-in-fact with full and irrevocable power and authority in Emergent's name or in its own name, to take after an event of default, any and all action and to execute any and all documents and instruments which BlockFi deems necessary or desirable to accomplish the purposes of the Pledge Agreement.

17. EDFM—Emergent's broker who is designated as the custodial entity under the Pledge Agreement—holds the Collateral in a specified numbered account. Following the event of default, BlockFi sought to have the Collateral transferred to it, but EDFM has refused to transfer the Collateral to BlockFi.

18. Specifically, on November 14, 2022, BlockFi sent EDFM a letter demanding it deliver the Collateral to BlockFi as required under the Pledge Agreement. A true and correct copy of BlockFi's November 14 letter is attached hereto as **Exhibit B-1**. EDFM responded the same day, rejecting BlockFi's demand. A true and correct a copy of EDFM's November 14 letter is attached hereto as **Exhibit B-2**. After discussions between counsel for BlockFi and EDFM, EDFM further responded via email indicating it would retain possession of the Collateral pending an order from a court with jurisdiction over the Collateral, a true and correct copy of which is attached hereto as **Exhibit B-3**.

C. The Chapter 11 Cases.

19. On November 28, 2022 (the "Petition Date"), BlockFi and its debtor affiliates as debtors and debtors-in-possession (collectively, the "Debtors") each filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code thereby commencing the Chapter 11 Cases. The

Debtors continue to manage and operate their businesses as debtors-in-possession pursuant to Bankruptcy Code sections 1107 and 1108.

20. The Debtors filed, among others, the *Debtors' Motion Seeking Entry of an Order (I) Restating and Enforcing the Worldwide Automatic Stay, Anti-Discrimination Provisions, and Ipso Facto Protections of the Bankruptcy Code, (II) Approving the Form and Manner of Notice, and (III) Granting Related Relief* (the "Worldwide Stay Motion").

21. An official committee of unsecured creditors has not yet been appointed in these Chapter 11 Cases. No trustee or examiner has been requested or appointed in these Chapter 11 Cases.

22. A detailed description of the Debtors and their businesses, and the facts and circumstances regarding the Debtors' Chapter 11 Cases are set forth in greater detail in the *Declaration of Mark Renzi in Support of the Debtors' Chapter 11 Petitions and First Day Motions* (the "First Day Declaration"), which was filed on the Petition Date and is incorporated by reference herein. As described in more detail in the First Day Declaration, the Debtors have initiated these Chapter 11 Cases to provide BlockFi with the opportunity to stabilize its business and consummate a comprehensive restructuring transaction that maximizes value for stakeholders. The First Day Declaration is attached hereto as Exhibit C.

23. The Defendants have been or will be served with notice of the Chapter 11 Cases.

D. This Adversary Proceeding.

24. On the Petition Date, BlockFi filed the *Debtors' Adversary Complaint Against Emergent Fidelity Technologies LTD. and ED&F Man Capital Markets, Inc.*, thereby initiating the Adversary Proceeding.

V. ARGUMENT

25. Pursuant to section 105 of the Bankruptcy Code, BlockFi respectfully requests an order of this Court (a) directing the Defendants to transfer the Collateral to a neutral broker or escrow under the Court's supervision or (b) alternatively, enjoining the transfer or use of the Collateral pending the resolution of this Adversary Proceeding. As the holder of the first priority security interest in the Collateral, which is property of the BlockFi bankruptcy estates, BlockFi is entitled to have all such Collateral immediately surrendered to it and/or liquidated in whatever manner necessary to preserve as much value as possible with the proceeds from any and all such sales transferred to BlockFi. While the Debtors believe that the Defendants should not transfer the Collateral to any person other than BlockFi because of the automatic stay (including any order that the Court enters on the Worldwide Stay Motion), BlockFi files the Motion for specific relief with respect to the Defendants and the Collateral. Moreover, while merely holding the Collateral may not be a violation of the automatic stay,³ the Defendants may take actions that would unquestionably violate the automatic stay,⁴ which would then require BlockFi to seek immediate relief from this Court after the fact.⁵ There is no reason for the BlockFi estates to bear such risk particularly here, where turnover is appropriate.

³ See *City of Chicago v. Fulton*, 141 S. Ct. 585, 590 (2021) (holding that section 362(a)(3) of the Bankruptcy Code “prohibits *affirmative acts* that would *disturb the status quo of estate property* as of the time when the bankruptcy petition was filed”).

⁴ See *Fulton*, 141 S. Ct. at 592 (explaining that the Supreme Court “has not decided whether and when § 362(a)’s other provisions may require a creditor to return a debtor’s property”) (Sotomayor, J., concurring).

⁵ BlockFi reserves all rights relative to any actions that the Defendants take or may have taken that would constitute a violation of the automatic stay and nothing herein waives or shall be deemed to waive any of BlockFi’s rights related thereto.

26. There can be no serious dispute that BlockFi is entitled to the Collateral pursuant to the Pledge Agreement. Even if there was a dispute over title to the Collateral, courts have held that such dispute is not fatal to a turnover claim. *See, e.g., In re Nurses' Registry and Home Health Corp.*, 533 B.R. 590, 597–598, (Bankr. E.D. Ky. 2015) (holding that a cause of action for turnover remains even if title is disputed and needs to be determined as part of the litigation and referring to other supporting authorities not cited as “too numerous to mention”) (citations omitted).

27. Section 105(a) of the Bankruptcy Code provides that the Court “may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code].” 11 U.S.C. § 105(a). If that section means anything, it permits bankruptcy courts to enter orders ensuring that estate-owned collateral is protected and not dissipated during the course of a debtor’s bankruptcy case. Based upon the foregoing, the Court has the authority to enter an order (a) directing the Defendants to transfer the Collateral to a neutral broker or escrow under the Court’s supervision or (b) alternatively, enjoining the transfer or use of the Collateral pending the resolution of this Adversary Proceeding.

28. To the extent the Motion is construed as seeking turnover from the Defendants to a neutral broker or escrow, the Court can grant the turnover relief sought herein despite it being sought in a motion instead of a full lawsuit. *See, e.g., Fulton*, 141 S. Ct. at 594 (recognizing that some “courts will permit debtors to seek turnover by simple motion, in lieu of filing a full adversary proceeding, at least where the creditor has received adequate notice”); *Stone v. White (In re Stone)*, No. 92-01383, 97-0034, 1998 WL 1819081, at *4 (Bankr. D.C. Nov. 4, 1998) (addressing writs of possession issued to enforce turnover pursuant to 11 U.S.C. § 105). In fact, this Court’s website includes instructions for filing motions for turnover of property in **both** the main bankruptcy case

and an adversary proceeding.⁶ Moreover, BlockFi filed the Motion in the Adversary Proceeding and, at a minimum, this Court may expedite the turnover proceeding “or order preliminary relief requiring temporary turnover.” *Id.* (citations omitted).

A. The Collateral is property of the BlockFi bankruptcy estates.

29. To be subject to turnover under section 542 of the Bankruptcy Code, the property must be property that the debtor may use, lease or sell under section 363, which generally means that it is property of the estate under section 541 of the Bankruptcy Code. 11 U.S.C. § 542 (a); *see also, e.g., In re The Vaughan Company, Realtors*, No. 11-10-10759 JA, Adv. No. 13-1030 J, 2015 WL 4498748, *3 (Bankr. D. N.M. July 23, 2015) (denying claim under section 542 because the property was not property of the bankruptcy estate). Likewise, property must be “property of the debtor, proceeds, product, offspring, rents, or profits of such property or property of the estate” for turnover under section 543 of the Bankruptcy Code. 11 U.S.C. § 543(a). A debtor’s bankruptcy estate includes “all legal or equitable interests of the debtor in property as of commencement of the case.” 11 U.S.C. § 541(a)(1).

30. Here, the Pledge Agreement is a valid and enforceable contract. Emergent failed to satisfy its obligations under the Pledge Agreement and BlockFi is therefore entitled to all or as much of the Collateral as is required to satisfy Emergent’s obligations thereunder. As a result, the Collateral is property of the BlockFi bankruptcy estates because BlockFi had superior rights to the Collateral as of the Petition Date. 11 U.S.C. § 541(a)(1). Accordingly, the Collateral is property that is subject to turnover under sections 542 and 543 of the Bankruptcy Code.

⁶ *See* <http://www.njb.uscourts.gov/content/motion-turnover-property-0> (instructions for filing “Motion for Turnover of Property” in the main bankruptcy case); <https://www.njb.uscourts.gov/content/motion-turnover-property> (instructions for filing “Motion for Turnover of Property” in an adversary proceeding).

B. BlockFi is entitled to turnover of the Collateral or the value of the Collateral from the Defendants under section 542 of the Bankruptcy Code.

31. The Defendants should “deliver to [BlockFi], and account for, [the Collateral] or the value of [the Collateral]” because the Defendants are not custodians, are in possession, custody or control of the Collateral “during the case,” and the Collateral has value to the BlockFi bankruptcy estates. 11 U.S.C. § 542(a); *see, e.g., Fulton*, 141 S. Ct. at 594 (“At least one bankruptcy court has held that § 542(a)’s turnover obligation is automatic even absent a court order.”) (citing *In re Larimer*, 27 B.R. 514, 516 (Bankr. D. Idaho 1983)) (Sotomayor, J., concurring). Similarly, Emergent “owes a debt that is property of the estate and that is matured”⁷ as a primary obligor, therefore, it must “pay such debt to [BlockFi],” which requires, among other things, EDFM and/or Emergent to transfer the Collateral to BlockFi. 11 U.S.C. § 542(b). Alternatively, the Defendants must tender the value of the Collateral to BlockFi. 11 U.S.C. § 542(a).

C. Alternatively, BlockFi is entitled to turnover of the Collateral from EDFM under section 543 of the Bankruptcy Code.

32. Section 543 of the Bankruptcy Code is the parallel turnover statute and applies only to custodians whereas section 542 of the Bankruptcy Code does not apply to custodians. Accordingly, to the extent the Court determines that EDFM is a “custodian” as defined in the Bankruptcy Code and that section 542 does not apply to it, BlockFi is entitled to turnover of the Collateral from EDFM pursuant to section 543 of the Bankruptcy Code.

⁷ Matured debt does not need to be evidenced by a promissory note to be subject to turnover under section 542(b) of the Bankruptcy Code. *See, e.g., In re MF Global Inc.*, 531 B.R. 424, 426–27, 431–38 (Bankr. S.D.N.Y. 2015) (finding in the context of a claim objection that the debtor’s customer was unconditionally liable to the debtor for the balance of his account, which was a matured debt under section 542(b) of the Bankruptcy Code, therefore, the trustee had made a *prima facie* showing that the amounts the debtor liquidated from the customer’s investment trading account were subject to turnover under the terms of the customer agreement).

33. “Custodian” is defined in pertinent part as an “agent . . . under a contract, that is appointed or authorized to take charge of property of the debtor for the purpose of enforcing a lien against such property, or for the purpose of general administration of such property for the benefit of the debtor’s creditors.” 11 U.S.C. § 101(11). EDFM is referred to as the “Banking or Custodial Entity” in the Pledge Agreement and holds the Collateral in a specified numbered account. Accordingly, EDFM may be a custodian for purposes of turnover claims under the Bankruptcy Code.

34. If EDFM is a custodian for purposes of turnover claims under the Bankruptcy Code, it is prohibited from taking any actions with respect to the Collateral except as may be “necessary to preserve such property” once it is notified of the Chapter 11 Cases. 11 U.S.C. § 543(a). As such, EDFM would not be prejudiced by an order requested in the Motion.

35. EDFM is also obligated to deliver the Collateral to BlockFi if it is a custodian for purposes of turnover claims under the Bankruptcy Code. 11 U.S.C. § 543(b). Accordingly, to the extent EDFM is a custodian for purposes of turnover claims under the Bankruptcy Code, BlockFi is entitled to turnover of the Collateral pursuant to section 543 of the Bankruptcy Code.

D. The Court should enter an order (a) directing the Defendants to transfer the Collateral to a neutral broker or escrow under the Court’s supervision or (b) alternatively, enjoining the transfer or use of the Collateral pending the resolution of the Adversary Proceeding.

36. Section 105(a) of the Bankruptcy Code empowers the Court to enjoin parties from taking action that interferes or threatens to interfere with the rehabilitative process of chapter 11. *See, e.g., A.H. Robins Co. v. Piccinin*, 788 F.2d 994, 1002–03 (4th Cir. 1986) (quotations and citations omitted) (discussing multiple grounds for a bankruptcy court to enjoin an entity from taking actions or continuing to act). “The bankruptcy court, in its discretion, may issue an appropriate injunction, even if the automatic stay is not operative.” *Penn Terra Ltd. v. Dep’t of*

Env'tl. Res., Com. of Pa., 733 F.2d 267, 273 (3d Cir. 1984) (citing 11 U.S.C. § 105); *see also, e.g.*, S. Rep. No. 95-989 at 51, 1978 U.S. Code Cong. & Ad. News at 5787, 5837; H. Rep. No. 95-595 at 342, 1978 U.S. Code Cong. & Ad. News at 5963, 6298 (“The court has ample other powers to stay actions not covered by the automatic stay.”).

37. In determining whether to grant preliminary injunctive relief under section 105(a), courts in the Third Circuit generally apply the traditional four-factor test for a preliminary injunction, tailored to the bankruptcy context. *See, e.g., In re Union Trust Phila., LLC*, 460 B.R. 644, 660 (E.D. Pa. 2011). Those four factors are: (1) the debtor’s reasonable likelihood of a successful reorganization; (2) the imminent risk of irreparable harm to the debtor’s estate in the absence of an injunction; (3) the balance of harms between debtor and the nonmoving party; and (4) whether the public interest weighs in favor of an injunction. *Id.* Here, the preliminary injunction factors all support enjoining the transfer of the Collateral to anyone other than BlockFi or a neutral broker or escrow under the Court’s supervision.

1. *The Debtors are Reasonably Likely to Reorganize.*

38. In the bankruptcy context, reasonable likelihood of success is equivalent to the debtor’s ability to successfully reorganize and BlockFi need only show the prospect or possibility of success and need not prove the same with certainty. *See In re LTL Mgmt., LLC*, 638 B.R. 291, 320 (Bankr. D.N.J. 2022) (quoting *In re Union Trust Phila., LLC*, 460 B.R. at 660 and citing *Conestoga Wood Specialties Corp. v. Sec’y of U.S. Dep’t of Health & Human Servs.*, 724 F.3d 377 (3d Cir. 2013) (Jordan, J., dissenting) rev’d and remanded sub nom. *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682 (2014) (collecting cases)); *see also In re G-I Holdings Inc.*, 420 B.R. 216, 281 (Bankr. D.N.J. 2009) (evaluating the “reasonable likelihood of a successful plan of reorganization”). BlockFi just initiated the Chapter 11 Cases to reorganize its business for the

benefit of all of its creditors and to emerge as a viable going concern. BlockFi submits, therefore, that this factor is satisfied. *See In re DBMP*, No. 20-30080, Adv. No. 20-03004, 2021 WL 3552350, at *39 (Bankr. W.D.N.C. Aug. 10, 2021) (explaining that courts have “consistently recognize[d] that satisfying this factor does not set a high bar”) (citations omitted); *see also In re Bestwall*, 606 B.R. 243, 254 (Bankr. W.D.N.C. 2019).

2. *The Debtor Will be Irreparably Harmed Unless the Court Issues the Injunction.*

39. Whether irreparable harm exists depends on whether the lack of an injunction “could interfere with the reorganization of the debtor’ or ‘would interfere with, deplete or adversely affect property of [the] estates or which would frustrate the statutory scheme of chapter 11 or diminish [the debtor’s] ability to formulate a plan of reorganization.’” *In re W.R. Grace & Co.*, 115 F. App’x 565, 570 (3d Cir. 2004) (citations omitted). Indeed, the Court has recently clarified that “the mere risk of a potentially adverse impact on a debtor’s bankruptcy can be sufficient to support a preliminary injunction” and the “plaintiff’s theory that the debtor would not suffer an adverse impact should not be tested at the debtor’s peril.” *LTL Mgmt., LLC v. San Diego Cty. Emps. Ret. Ass’n (In re LTL Mgmt., LLC)*, 640 B.R. 322, 337 (Bankr. D.N.J. 2022).

40. Here, the Collateral is a valuable asset of the BlockFi bankruptcy estates. Moreover, the lack of control over and ability to access and/or use the Collateral will interfere with BlockFi’s reorganization, thereby frustrating the purpose of chapter 11, and diminish BlockFi’s ability to formulate a plan of reorganization. Accordingly, if the Collateral is not promptly delivered to BlockFi or alternatively subjected to a neutral party’s control, BlockFi will be irreparably harmed.

3. *The Balance of Harms Weighs Heavily in Favor of this Court's Issuing of the Preliminary Injunction.*

41. The balance of the harms weighs heavily in favor of an injunction. The Debtors need the Collateral to support their reorganization and formulate a plan of reorganization. By contrast, Emergent absolutely, unconditionally, and irrevocably guaranteed the payment obligations of the borrower under the Forbearance Agreement. Accordingly, the only real question from Emergent's perspective is the timing of the delivery of the Collateral to BlockFi. Neither of the Defendants will be harmed by the relief sought in the Motion because such relief would merely preserve the Collateral pending the final resolution of the Adversary Proceeding. Accordingly, BlockFi will be prejudiced if the if the Collateral is not held pending further order from this Court in the Adversary Proceeding.

4. *The Public Interest Supports this Court's Issuing an Injunction.*

42. The public interest also favors an injunction. "In the context of a bankruptcy case, promoting a successful reorganization is one of the most important public interests," *In re Integrated Health Servs., Inc.*, 281 B.R. 231, 239 (D. Del. 2002), and injunctive relief here would do so. *See also, e.g., In re Saxby's Coffee Worldwide, LLC*, 440 B.R. 369, 383 (Bankr. E.D. Pa. 2009) ("To the extent that the injunction is necessary to and will foster the Debtor's reorganization it serves 'one of the most important public interests.'" (quoting *In re Integrated Health Servs., Inc.*, 281 B.R. 231, 239 (Bankr. D. Del. 2002))). Enjoining the Defendants from transferring the Collateral will support a uniform, timely and equitable resolution and is in the public interest.

VI. CONCLUSION

43. For all of the reasons described above, the Debtor respectfully requests the entry of an order (i) (a) directing the Defendants to transfer the Collateral to a neutral broker or escrow under the Court's supervision or (b) alternatively, enjoining the transfer or use of the Collateral

pending the resolution of this Adversary Proceeding and (ii) granting such other and further relief,
at law or equity, to which BlockFi may be entitled.

Dated: November 28, 2022

/s/ Michael D. Sirota

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EXHIBIT A

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*Proposed Attorneys for Debtors and
Debtors in Possession*

In re:
BLOCKFI INC., *et al.*,

Debtors.¹

BLOCKFI INC., BLOCKFI LENDING LLC AND
BLOCKFI INTERNATIONAL LLC,

Plaintiffs,

-against-

EMERGENT FIDELITY TECHNOLOGIES LTD.
AND ED&F MAN CAPITAL MARKETS, INC.,

Defendants.

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

Case No. 22-19361 (MBK)

(Joint Administration Requested)

Chapter 11

Adv. Pro. No. 22-01382 (MBK)

**DECLARATION OF ZACHARY PRINCE IN SUPPORT OF
THE DEBTORS’ MOTION FOR ENTRY OF AN ORDER PURSUANT TO
SECTIONS 105(a), 542, AND 543 OF THE BANKRUPTCY CODE
(I) DIRECTING THE COLLATERAL BE TRANSFERRED TO A
NEUTRAL BROKER OR ESCROW UNDER THE COURT’S SUPERVISION
OR (II) ENJOINING THE DEFENDANTS FROM TRANSFERRING
OR USING THE COLLATERAL PENDING FINAL
RESOLUTION OF THE TURNOVER CLAIMS**

¹ The Debtors in these chapter 11 cases (the “Debtors”), along with the last four digits of each Debtor’s federal tax identification number, are: BlockFi Inc. (0015); BlockFi Trading LLC (2487); BlockFi Lending LLC (5017); BlockFi Wallet LLC (3231); BlockFi Ventures LLC (9937); BlockFi International Ltd. (N/A); BlockFi Investment Products LLC (2422); BlockFi Services, Inc. (5965) and BlockFi Lending II LLC (0154). The location of the Debtors’ service address is 201 Montgomery Street, Suite 263, Jersey City, NJ 07302.

I, Zachary Prince, hereby declare as follows under penalty of perjury:

1. I am over eighteen and have never been convicted of a felony or other crime involving moral turpitude, and do not suffer from any mental or physical disability that would render me incompetent to make this declaration. I am able to swear, and I hereby do swear, that all of the facts stated in this declaration are true and correct and within my personal knowledge or are known to me by reason of my position and involvement in this proceeding.

2. I am employed by BLOCKFI, INC. ("BlockFi Inc.") as its Chief Executive Officer. I am also the President of BlockFi Lending LLC ("BlockFi Lending") and the Chief Executive Office of BlockFi International LLC ("BlockFi International" and together with BlockFi Inc. and BlockFi Lending, "BlockFi"). Accordingly, I am generally familiar with the business operations, business and financial affairs, and books and records of BlockFi.

3. I am authorized to submit this declaration on behalf of BlockFi in support of the *Debtors' Motion for Entry of an Order Pursuant to Sections 105(a), 542, and 543 of the Bankruptcy Code (I) Directing the Collateral be Transferred to a Neutral Broker or Escrow under the Court's Supervision or (II) Enjoining the Defendants from Transferring or Using the Collateral Pending Final Resolution of the Turnover Claims* (the "Motion").² If I were called upon to testify, I could and would testify to each of the factual allegations contained in the Motion (and hereby affirm them) as set forth herein.

4. BlockFi entered into a pledge agreement with Emergent Fidelity Technologies Ltd. ("Emergent") as of November 9, 2022 (the "Pledge Agreement"). The Pledge Agreement was

² Capitalized terms not otherwise defined in this declaration shall have the same meanings ascribed to such terms in the Motion.

given in consideration for BlockFi Lending and BlockFi International entering into an Amendment & Forbearance Agreement also dated November 9, 2022 (the “Forbearance Agreement”).

5. Under the Forbearance Agreement, BlockFi Lending and BlockFi International agreed to forbear from exercising certain rights and remedies then available to them under various loan documents as a result of multiple events of default. BlockFi Lending and BlockFi International also agreed to extend certain payment obligations, provided the borrower complied with its obligations under the Forbearance Agreement, including making timely payments in accordance with a payment schedule described therein.

6. Emergent acknowledged it would receive a direct or indirect benefit from BlockFi entering into the Forbearance Agreement.

7. Under the Pledge Agreement, Emergent absolutely, unconditionally, and irrevocably guaranteed the payment obligations of the borrower under the Forbearance Agreement. Emergent’s guaranty was secured by a first priority security interest—in favor of BlockFi—in all of Emergent’s rights, titles, and interests in, among other things, the Collateral which includes certain shares of common stock. The Collateral has value to the BlockFi bankruptcy estates.

8. Emergent did not satisfy its payment obligations under the Pledge Agreement or promptly deliver the Collateral to BlockFi Inc. BlockFi Inc. has perfected its security interest in the Collateral through the filing of a UCC-1 Financing Statement.

9. In the Pledge Agreement, Emergent granted BlockFi a power of attorney to act as its true and lawful attorney-in-fact with full and irrevocable power and authority in Emergent’s name or in its own name, to take after an event of default, any and all action and to execute any and all documents and instruments which BlockFi deems necessary or desirable to accomplish the purposes of the Pledge Agreement.

10. According to the Pledge Agreement, ED&F Man Capital Markets Inc. (“EDFM”)—Emergent’s broker who is designated as the custodial entity under the Pledge Agreement—holds the Collateral in a specified numbered account.

11. On November 10, 2022, BlockFi Lending and BlockFi International sent a letter (the “Notice Letter”) to Emergent notifying it that the forbearance period had ended due to an event of default, including borrower’s failure to timely make a required payment in accordance with the payment schedule and that all obligations were immediately due and payable. A true and correct copy of the Notice Letter (without the attachment) is attached hereto as **Exhibit A-1**.

12. BlockFi reasonably believes all of the Collateral is currently in the possession, custody, and/or control of EDFM. Following the event of default, BlockFi sought to have the Collateral transferred to it, but EDFM has refused to transfer the Collateral to BlockFi.

13. On November 28, 2022, BlockFi and its debtor affiliates as debtors and debtors-in-possession (collectively, the “Debtors”) each filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code thereby commencing the above-captioned chapter 11 cases (the “Chapter 11 Cases”). Emergent and EDFM have been or will be served with notice of the Chapter 11 Cases.

[Signature Page Follows]

Pursuant to 28 U.S.C. Section 1746, I declare under penalty of perjury that the foregoing
statements are true and correct.

Executed on November 27, 2022

By:  _____
Name: Zachary Prince
Title: Chief Executive Office
BLOCKFI, INC.

EXHIBIT A-1

BLOCKFI LENDING LLC
201 Montgomery St., Suite 263
Jersey City, NJ 07302

BLOCKFI INTERNATIONAL LTD.
201 Montgomery St., Suite 263
Jersey City, NJ 07302

November 10, 2022

VIA EMAIL

Emergent Fidelity Technologies Ltd.
Unit 3B Bryson's Commercial Complex
Friars Hill Road
St. Johns, Antigua
Attn: Sam Bankman-Fried
Email: sam@ftx.com

Re: Notice of Event of Default and Acceleration

Ladies and Gentlemen:

Reference is made to

- (i) the Pledge Agreement, dated as of November 9, 2022 (as amended, restated, amended and restated, supplemented, or otherwise modified from time to time, the "Pledge Agreement") by and among BlockFi Inc., a Delaware corporation ("Collateral Agent") for BlockFi Lending LLC, a Delaware limited liability company ("BlockFi Lending") and BlockFi International Ltd., a limited company organized and existing under the laws of Bermuda ("BlockFi International") and, together with BlockFi Lending, the "Lenders" and, together with Collateral Agent, the "Secured Party" or "we" or "us") and Emergent Fidelity Technologies Ltd., a company incorporated under the laws of Antigua and Barbuda ("Pledgor" or "you");
- (ii) the Master Digital Currency Loan Agreement, dated as of July 15, 2019 (together with any loan agreement and any loan term sheet thereunder, and as amended by the Forbearance Agreement referred to below and as amended by the Pledge Agreement, and as may have heretofore been or may hereafter be further amended, modified, supplemented, extended, renewed, restated or replaced, the ("BlockFi Lending Master Agreement") between Alameda Research Limited, a limited company organized and existing under the law of the British Virgin Islands ("Borrower") and BlockFi Lending, as Lender;
- (iii) the Amended and Restated Master Loan Agreement, dated as of January 26, 2022 (together with any loan agreement and any loan term sheet thereunder, and as amended by the Forbearance Agreement referred to below and as amended by the Pledge Agreement, and as may have heretofore been or may hereafter be further amended, modified, supplemented, extended, renewed, restated or replaced, the "BlockFi International Master Agreement" and, together with the BlockFi Lending Master Agreement, each, a "Master Agreement" and, collectively, the "Master Agreements") between Borrower and BlockFi International, as Lender; and
- (iv) the Amendment & Forbearance Agreement, dated as of November 9, 2022 (as amended, restated, amended and restated, supplemented, or otherwise

modified from time to time, the "Forbearance Agreement") by and among Borrower, BlockFi Lending and BlockFi International.

Unless specified otherwise, capitalized terms not defined herein shall have the meanings assigned in the Pledge Agreement.

We hereby notify you that (i) Borrower has failed to make a payment or transfer of assets when due and payable pursuant to the Payment Schedule (as defined in the Forbearance Agreement) and, as a result of such failure, a Termination Event (as defined in the Forbearance Agreement) has occurred under the Forbearance Agreement, (ii) Borrower has failed to comply with the covenants, conditions and agreements contained in the Forbearance Agreement and, pursuant to Section 3.4 of the Forbearance Agreement, such failure constitutes an Event of Default under the BlockFi Lending Master Agreement, the BlockFi International Master Agreement and the other Loan Documents, and (iii) as a result of the foregoing, the Forbearance Period (as defined in the Forbearance Agreement) has terminated.

As a result of the foregoing, an Event of Default occurred and exists pursuant to Section 8(a)(ii) of the Pledge Agreement.

Pursuant to the foregoing and Section 8(b) of the Pledge Agreement, we hereby notify you that:

- (i) we are declaring the Secured Obligations to be hereby immediately due and payable;
- (ii) we are declaring all of the Guaranteed Obligations to be hereby immediately due and payable; and
- (iii) we intend to exercise all remedies available to us under the Pledge Agreement, including, without limitation, (a) to sell, or instruct any agent or broker to sell, all or any part of the Collateral in a public or private sale, (b) to direct any agent or broker to liquidate all or any part of any account and deliver all proceeds thereof to Secured Party, (c) to apply all proceeds to the payment of any or all of the Guaranteed Obligations in such order and manner as Secured Party, in its direction, chooses and (d) to transfer all or any assets held in or credited to the Current Collateral Account or Perfection Collateral Account to Secured Party or as Secured Party may otherwise direct.

Nothing contained in this notice is intended to waive any default, or waive any rights, remedies, or recourses available to the Secured Party, nor be an exclusive election of remedies resulting from any default with respect to the Pledge Agreement, the Master Agreements and the other Loan Documents.

This notice is without prejudice to the Secured Party, and the Secured Party reserves any and all rights, powers, privileges and remedies under the Pledge Agreement, the Master Agreements and the other Loan Documents.

Yours truly,

BLOCKFI LENDING LLC

BLOCKFI INTERNATIONAL LTD.

EXHIBIT B

COLE SCHOTZ P.C.

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*Proposed Attorneys for Debtors and
Debtors in Possession*

In re:

BLOCKFI INC., *et al.*,

Debtors.¹

BLOCKFI INC., BLOCKFI LENDING LLC AND
BLOCKFI INTERNATIONAL LLC,

Plaintiffs,

-against-

EMERGENT FIDELITY TECHNOLOGIES LTD.
AND ED&F MAN CAPITAL MARKETS, INC.,

Defendants.

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

Case No. 22-19361 (MBK)

(Joint Administration Requested)

Chapter 11

Adv. Pro. No. 22-01382 (MBK)

**DECLARATION OF RICHARD D. ANIGIAN IN SUPPORT OF
THE DEBTORS' MOTION FOR ENTRY OF AN ORDER PURSUANT TO
SECTIONS 105(a), 542, AND 543 OF THE BANKRUPTCY CODE (I) DIRECTING
THE COLLATERAL BE TRANSFERRED TO A NEUTRAL BROKER OR
ESCROW UNDER THE COURT'S SUPERVISION OR (II) ENJOINING THE
DEFENDANTS FROM TRANSFERRING OR USING THE COLLATERAL
PENDING FINAL RESOLUTION OF THE TURNOVER CLAIMS**

I, Richard D. Anigian, hereby declare as follows under penalty of perjury:

¹ The Debtors in these chapter 11 cases (the "Debtors"), along with the last four digits of each Debtor's federal tax identification number, are: BlockFi Inc. (0015); BlockFi Trading LLC (2487); BlockFi Lending LLC (5017); BlockFi Wallet LLC (3231); BlockFi Ventures LLC (9937); BlockFi International Ltd. (N/A); BlockFi Investment Products LLC (2422); BlockFi Services, Inc. (5965) and BlockFi Lending II LLC (0154). The location of the Debtors' service address is 201 Montgomery Street, Suite 263, Jersey City, NJ 07302.

1. I am over eighteen and have never been convicted of a felony or other crime involving moral turpitude, and do not suffer from any mental or physical disability that would render me incompetent to make this declaration. I am able to swear, and I hereby do swear, that all of the facts stated in this declaration are true and correct and within my personal knowledge or are known to me by reason of my position and involvement in this proceeding.

2. I am an attorney licensed to practice in the State of Texas since November 1985. I have at all times thereafter been a member in good standing with the State Bar of Texas.

3. I am a partner in the law firm of Haynes and Boone, LLP and have been a member of the law firm's litigation department since 1987.

4. I submit this declaration in order to present documents relevant to, and in support of the *Debtors' Motion for Entry of an Order Pursuant to Sections 105(a), 542, and 543 of the Bankruptcy Code (I) Directing the Collateral be Transferred to a Neutral Broker or Escrow under the Court's Supervision or (II) Enjoining the Defendants from Transferring or Using the Collateral Pending Final Resolution of the Turnover Claims* (the "Motion") on behalf of BLOCKFI INC. ("BlockFi Inc."), BlockFi Lending LLC ("BlockFi Lending") and BlockFi International LLC ("BlockFi International" and together with BlockFi Inc. and BlockFi Lending, "BlockFi"). If I were called upon to testify, I could and would competently testify to the facts set forth herein.

5. On November 14, 2022, I sent a letter on behalf of BlockFi Lending and BlockFi International (the "BlockFi Letter") to ED&F Man Capital Markets Inc. ("EDFM") notifying it of the exercise of a power of attorney and demanding that EDFM transfer the Collateral (as defined in the BlockFi Letter) to an account in BlockFi Lending's and BlockFi International's name. A true and correct copy of the BlockFi Letter (without the attachment) is attached hereto as **Exhibit B-1**.

6. That same day, I received a letter from Therese M. Doherty, as counsel to EDFM, rejecting BlockFi Lending's and BlockFi International's demand to transfer the Collateral to them. A true and correct copy of Ms. Doherty's letter that I received is attached hereto as **Exhibit B-2**.

7. On November 16, 2022, following a conversation I had with counsel for EDFM, I received further confirmation from EDFM's counsel that EDFM will retain custody of the Collateral until otherwise ordered by a court with jurisdiction over the assets. A true and correct copy of the email exchange between me and counsel for EDFM is attached hereto as **Exhibit B-3**.

[Signature Page Follows]

Pursuant to 28 U.S.C. Section 1746, I declare under penalty of perjury that the foregoing statements are true and correct.

Executed on November 28, 2022


By: 
Name: Richard D. Anigian
Title: Partner, Haynes and Boone, LLP

EXHIBIT B-1

HAYNES BOONE



November 14, 2022

Thomas A. Hayes Jr. *via email*
Senior Vice President
General Counsel
E D & F Man Capital Markets Inc.
140 East 45th Street, 10th Floor
New York, New York 10017
thayes@edfmancapital.com

RE: E D & F Man Capital Markets Inc (“**EDFM**”). Account Number 49*-305**COMBINED (the “**Account**”) holding Collateral Shares of Class A Common Stock of Robinhood (Ticker: HOOD) (the “**Collateral**”) securing that certain Pledge Agreement (the “**Emergent Pledge Agreement**”) entered into as of November 9, 2022, by and among BlockFi Lending LLC (“**BlockFi Lending**”), BlockFi International Ltd (“**BlockFi International**” and together, “**BlockFi**”), and Emergent Fidelity Technologies Ltd. (“**Emergent**”). Unless specified otherwise, capitalized terms not defined herein shall have the same meanings assigned in the Emergent Pledge Agreement.

Dear Mr. Hayes:

We represent BlockFi Lending and BlockFi International. Emergent has guaranteed the repayment of certain obligations of Alameda Research Limited to BlockFi and has pledged a first priority security interest in and to all of Emergent’s rights, titles and interests in the Collateral pursuant to the terms of the Emergent Pledge Agreement, a copy of which is attached. This notice follows up on your email communications with, among others, Jonathan Mayers and Zac Prince at BlockFi on November 10 and 11, 2022 (the “**Communications**”).

As EDFM was notified in the Communications, BlockFi notified Emergent of an Event of Default under the Emergent Pledge Agreement, that Emergent’s Guaranteed Obligations were immediately due and payable, and that BlockFi intended to exercise all available remedies thereunder.

Pursuant to Section 6 of the Emergent Pledge Agreement, Emergent irrevocably appointed BlockFi and any of its officers or agents as its lawful attorney-in-fact with irrevocable power and authority in the name of Emergent or in its own name, to cause, among other things, the Collateral to be transferred or sold after the occurrence of an Event of Default. BlockFi hereby demands, pursuant to the powers granted to it as attorney-in-fact for Emergent pursuant to Section 6 of the Emergent Pledge Agreement that EDFM immediately transfer to it all of the Collateral. Upon EDFM’s confirmation that it will comply with this demand, BlockFi will provide written instructions for the transfer of the Collateral.

HAYNES BOONE



Thomas A. Hayes Jr.
November 14, 2022
Page 2

In the event that EDFM refuses to comply with this demand, BlockFi hereby demands based on its first priority security interest in the Collateral, that EDFM take all steps necessary to preserve the Collateral and to confirm that none of the Collateral will be transferred to any party other than BlockFi absent a valid, enforceable, and non-appealable order from a court of competent jurisdiction. The transfer of all or any part of the Collateral to any party other than BlockFi will cause BlockFi to suffer irreparable harm.

Please confirm that EDFM will either (i) comply with our demand to transfer the Collateral to us, or (ii) hold all Collateral subject to (a) further instructions from BlockFi in accordance with its rights as attorney-in-fact under Section 6 of the Emergent Pledge Agreement (which may include instructions to liquidate the Collateral) and/or (b) court order as described herein.

Time is of the essence with respect to these matters. Therefore, BlockFi requests a response to this demand and request at your earliest convenience, but no later than 12 noon, New York time, on Tuesday, November 15, 2022.

Should you have any questions or wish to discuss this matter in more detail, please do not hesitate to contact me.

Very truly yours,

Richard D. Anigian
Direct Phone Number: (214) 651-5633
Direct Fax Number: (214) 200-0354
rick.anigian@haynesboone.com

RDA/pam

cc: Emergent Fidelity Technologies Ltd. *via email*
Unit 3B Bryson's Commercial Complex
Friars Hill Road
St. Johns, Antigua
Attn: Sam Bankman-Fried
sam@ftx.com

Attachment

EXHIBIT B-2

Therese M. Doherty
212 692 6722
tdoherty@mintz.com



Chrysler Center
666 Third Avenue
New York, NY
212 935 3000
mintz.com

November 14, 2022

VIA EMAIL: rick.anigian@haynesboone.com

Richard D. Anigian, Esq.
Haynes and Boone, LLP
2323 Victory Avenue, Suite 700
Dallas, TX 75219

Re: E D & F Man Capital Markets Inc. Account Number 49*-305**COMBINED /
BlockFi / Alameda Research Limited / Emergent Fidelity Technologies Inc.

Dear Mr. Anigian:

This firm is counsel to E D & F Man Capital Markets Inc. (“MCM”). We write in response to your letter to Thomas A. Hayes, Jr., Esq. dated November 14, 2022.

In light of the Chapter 11 petitions filed in the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”) by FTX Trading Ltd., Case No. 22-11068, Alameda Research Limited, Case No. 22-11067, and their affiliated entities (the “Bankruptcy”), and the automatic stay pursuant to 11 U.S.C. § 362, MCM hereby rejects the demand made on behalf of BlockFi Lending LLC and/or BlockFi International Ltd. (collectively, “BlockFi”) to transfer to BlockFi assets held at MCM in account number 499-30500 (the “Assets”).

MCM hereby confirms that MCM will not transfer, or grant control over, to any third party any of the Assets absent an order from the Bankruptcy Court or other court with jurisdiction over the Assets.

Please direct all future communications regarding this matter to me.

Sincerely,

/s/ Therese M. Doherty

cc: Thomas A. Hayes, Jr., Esq.

EXHIBIT B-3

From: [Collins, LisaMarie](#)
To: [Anigian, Rick](#)
Cc: [Walsh, Kaitlin](#); [Jones, Charlie](#); [Doherty, Therese](#)
Subject: RE: BlockFi Lending and BlockFi International
Date: Wednesday, November 16, 2022 4:59:49 PM

EXTERNAL: Sent from outside Haynes and Boone, LLP

Rick-

This will confirm that it appears that Emergent Fidelity Technologies Ltd. is an affiliate of Alameda Research Ltd. and that the assets in the accounts at ED&F in the names of Alameda Research Ltd. and Emergent Fidelity Technologies Ltd. are property of the estate of one or more debtors in bankruptcy and subject to the automatic stay imposed by 11 U.S.C. § 362. In all events, all assets in accounts at ED&F in the name of Alameda Research Ltd. and Emergent Fidelity Technologies Ltd. will remain at ED&F until ordered otherwise by a court with jurisdiction over the assets.

Regards,

LisaMarie Collins (*she/her/hers*)
Member

Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.
666 Third Avenue, New York, NY 10017
[+1.212.692.6252](tel:+12126926252)
LCollins@mintz.com | [Mintz.com](https://www.mintz.com)

From: Anigian, Rick <Rick.Anigian@haynesboone.com>
Sent: Wednesday, November 16, 2022 8:45 AM
To: Doherty, Therese <TDoherty@mintz.com>
Cc: Collins, LisaMarie <LCollins@mintz.com>; Walsh, Kaitlin <KRWalsh@mintz.com>; Jones, Charlie <Charlie.Jones@haynesboone.com>
Subject: RE: BlockFi Lending and BlockFi International

Therese,

Thanks for your response. Do you have some time this afternoon to discuss this matter? If so, please let us know your availability.

Thanks,

Rick


Rick Anigian | Partner

rick.anigian@haynesboone.com | (t) +1 214.651.5633

From: Doherty, Therese <TDoherty@mintz.com>

Sent: Monday, November 14, 2022 1:43 PM

To: Anigian, Rick <Rick.Anigian@haynesboone.com>

Cc: Thomas A. Hayes (thayes@edfmancapital.com) <thayes@edfmancapital.com>; Collins, LisaMarie <LCollins@mintz.com>; Walsh, Kaitlin <KRWalsh@mintz.com>

Subject: BlockFi Lending and BlockFi International

EXTERNAL: Sent from outside Haynes and Boone, LLP

Dear Mr. Angian,

Please see the attached letter.

Sincerely,

Therese M. Doherty

Member / Co-Chair, Financial Services Practice

Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.

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EXHIBIT C

COLE SCHOTZ P.C.

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KIRKLAND & ELLIS LLP

KIRKLAND & ELLIS INTERNATIONAL LLP

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*Proposed Attorneys for the Debtors and
Debtors in Possession*

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

In re:

BLOCKFI INC., *et al.*¹

Chapter 11

Case No. 22-____ (____)

(Joint Administration Requested)

**DECLARATION OF MARK A. RENZI IN SUPPORT OF DEBTORS’
CHAPTER 11 PETITIONS AND FIRST-DAY MOTIONS**

I, Mark A. Renzi, hereby declare under penalty of perjury:

1. Despite their best efforts to stabilize the enterprise and protect clients, the Debtors are faced with a severe liquidity crunch due to the unprecedented, expedited collapse of FTX Trading Ltd., West Realm Shires, Inc (dba FTX US), Alameda Research, Ltd. and their affiliates (together, “FTX”). FTX had been expected to acquire the Debtors before FTX’s true financial

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: BlockFi Inc. (0015); BlockFi Trading LLC (2487); BlockFi Lending LLC (5017); BlockFi Wallet LLC (3231); BlockFi Ventures LLC (9937); BlockFi International Ltd. (N/A); BlockFi Investment Products LLC (2422); BlockFi Services, Inc. (5965) and BlockFi Lending II LLC (0154). The location of the Debtors’ service address is 201 Montgomery Street, Suite 263, Jersey City, NJ 07302.

circumstances were revealed, FTX's then-management team resigned, and FTX free-fell into bankruptcy. Given these circumstances, the Debtors had no choice but to file for chapter 11 relief to protect their clients and preserve the value of their business.

2. Although the Debtors' exposure to FTX is a major cause of this bankruptcy filing, the Debtors do not face the myriad issues apparently facing FTX. Quite the opposite. Since its founding, BlockFi has been focused on providing best-in-class financial services and offering (sometimes creating) industry-leading protections. BlockFi adopted corporate governance and risk management processes and took several other actions to protect its clients—including reaching a settlement with the U.S. Securities and Exchange Commission (the "SEC") and working diligently to register potentially relevant products and halt the use of products that the SEC was investigating—because doing so was in the best interest of its clients. With extensive financial and regulatory controls in place, the Debtors have worked around the clock with their advisors, including myself, to develop a strategy positioning the Debtors for a successful emergence from these chapter 11 cases.

3. The Debtors' planning has left them well-positioned to move forward despite the fact that 2022 has been a uniquely terrible year for the cryptocurrency industry, given the collapse of the UST/Luna stablecoin ecosystem and the bankruptcies of Singapore-based cryptocurrency hedge fund Three Arrows Capital and several major cryptocurrency brokerages and exchanges such as Celsius Network Ltd. and Voyager Digital—all before the FTX debacle unfolded over a period of several days earlier this month. These events, individually and collectively, shook the confidence of cryptocurrency investors and caused a market purge, with substantial numbers of investors seeking to pull their funds from any and all cryptocurrency investments. BlockFi was not immune.

4. While BlockFi has fared better than many of its peers in the market, this confluence of pre-November 2022 events led it to seek an injection of liquidity in an effort to protect its clients from harm. FTX offered to supply that liquidity through a loan agreement and an option agreement (providing an option to FTX to purchase the equity of BlockFi at a later date) that would protect clients and BlockFi's ability to continue operating as a going concern. BlockFi accepted this offer to stave off a liquidity crisis and avoid harm to its clients, despite it requiring its executives and employees to sacrifice hundreds of millions of dollars in equity value while continuing to work increasingly hard without the potential upside that equity ownership otherwise offered.

5. FTX's apparent "rescue," which began in the summer of 2022, stabilized BlockFi. But that was short lived. Over the past few weeks, exposure to FTX exacerbated rather than cured BlockFi's ailments. Public reports that began to circulate on November 2, 2022, citing leaked internal financial statements, caused a large volume of withdrawals on FTX specifically and the cryptocurrency markets more generally. The FTX companies ultimately began filing bankruptcy petitions on November 11, 2022, and have faced simultaneous proceedings in Delaware and New York along with a foreign insolvency proceedings in the Bahamas and Turkey (so far).

6. BlockFi has substantial exposure to FTX, through the FTX Loan Agreement and FTX Option Agreement (as defined herein), as well as loans that BlockFi made to Alameda Research Ltd. ("Alameda") and cryptocurrencies held on FTX's platform for trading activities which became trapped on FTX's platform due to its bankruptcy filing. This exposure has created a liquidity crisis. To again protect its clients' interests, BlockFi took protective measures—including retaining veteran restructuring advisors and pausing account withdrawals—and now files these chapter 11 cases to allow BlockFi to run an orderly process and maximize the value it can deliver to its clients.

7. BlockFi intends to swiftly bring these chapter 11 cases to an appropriate conclusion and restore liquidity to its firm, preserving and maximizing value for clients. While open to any alternative that maximizes value, BlockFi is filing a proposed Plan that contemplates a standalone restructuring, predicated on the Debtors' goal to provide clients as close to a full recovery as possible. A full recovery for creditors would require, among other things, that the Debtors' counterparties and third-party custodians meet their contractual and legal obligations. While the Debtors are hopeful, the full extent of the fallout from FTX's collapse remains to be determined.

8. The challenges faced by cryptocurrency firms this year have been unprecedented for the industry. But BlockFi's careful actions and decisive planning have all been designed to maximize value for stakeholders and will enable it to weather as much of the storm as possible. These chapter 11 cases are another step in that direction. BlockFi will continue to do everything possible to protect and deliver value to its clients and position its business for future success.

Background

9. I am a Managing Director and the Head of the Corporate Finance Financial Institutions Group for Berkeley Research Group, LLC ("BRG"), the proposed financial advisor to the Debtors. I submit this declaration in support of the chapter 11 petitions and first-day motions filed by the debtors and debtors in possession (collectively, the "Debtors").

10. Unless otherwise indicated, the statements set forth in this declaration are based upon (a) my personal knowledge of the Debtors' business, (b) information learned from my review of relevant documents, (c) information I received from the BRG team working under my supervision or the Debtors' management team and other advisors, or (d) my experience as a restructuring professional. I am not being specifically compensated for this testimony other than through payments proposed to be received by BRG as a professional retained by the Debtors.

11. Since the Debtors engaged BRG on November 12, 2022, I have worked closely with the Debtors' management and other professionals on the Debtors' restructuring efforts, including assisting the Debtors in preparing cash flow projections, budgets, and other reports. I lead the BRG team advising the Debtors. Thus far, while the FTX collapse has ultimately left the Debtors with no choice but to initiate these chapter 11 cases, I have found the BlockFi management team to be knowledgeable and experienced, diligent, responsible stewards of their stakeholders' assets, each member of which cares deeply about doing the right thing and maximizing value for clients and stakeholders. To date, I have not found any failure of corporate controls or systems integrity, and I have found BlockFi's financial information to be trustworthy.

12. On the date hereof (the "Petition Date"), each of the Debtors filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code").² To minimize the adverse effects on their business and facilitate a "smooth landing" in chapter 11, the Debtors also filed motions seeking certain "first day" relief (the "First Day Motions").

13. I am over 18 and authorized to submit this declaration on behalf of the Debtors. If called, I would testify competently as set forth herein. This Declaration is organized as follows:

- Part I provides a brief overview of the cryptocurrency industry;
- Part II describes the Debtors' historical background and business operations;
- Part III describes the Debtors' prepetition corporate and capital structure; and
- Part IV describes the circumstances leading to the filing of these Chapter 11 Cases and the Debtors' path forward.

In addition, **Exhibit A** addresses the First Day Motions; **Exhibit B** is a structure chart for the Debtors; and **Exhibit C** is a timeline of key events leading to the filing of these chapter 11 cases.

² BlockFi Intl., a company organized in Bermuda, also filed a winding up petition in the Supreme Court of Bermuda (for restructuring purposes only), together with an application for the appointment of joint provisional liquidators on a "light touch provisional liquidation basis" to assist the board of BlockFi Intl. with this restructuring.

I. Overview of Cryptocurrency

14. A cryptocurrency, simply put, is a digital currency. Individuals use cryptocurrencies as a medium of exchange or a store of value. Cryptocurrency is used to execute transactions on a “blockchain,” a digital technology that vets and verifies transactions through a rigorous mathematical process, which presents a use case for a “trustless,” decentralized ledger. Each blockchain utilizes a specific cryptocurrency or a limited number of cryptocurrencies to execute transactions (for example, the Ethereum blockchain uses Ether as its cryptocurrency). A blockchain acts as a digital ledger because it records every single transaction ever made by its “native” cryptocurrency.

15. Cryptocurrencies themselves are decentralized in that they are not issued by a government or central institution. Cryptocurrency transactions are also generally anonymous. That said, each transaction is recorded on the blockchain, and certain information about each transaction may be viewed by any individual for free. It works as follows: a cryptocurrency token denotes a unit of that cryptocurrency and is associated with an ID for that token. When that token is created and exchanged, the transactions are recorded and associated with the ID on that token’s blockchain. So, an individual may look up the ID of that token to identify the wallet from where the token was sent and the wallet it was sent to. Because each token is always being traced on the blockchain, it is impossible for that particular token to be duplicated.

16. All cryptocurrency is stored on the blockchain but can only be accessed by a private “key” held by the cryptocurrency’s owner. Cryptocurrency keys are held in cryptocurrency wallets that allow the owner to easily, and securely, manage the keys to their cryptocurrency assets.

17. There are thousands of cryptocurrencies, some more prevalent than others. Two, however, have emerged as industry leaders.

18. The first is Bitcoin. Bitcoin (“BTC”) is the most successful early cryptocurrency. Because of its success, it is used as a proxy for the cryptocurrency industry much in the same way the S&P 500 is used as a proxy for financial markets at large. The market capitalization of Bitcoin as of the date hereof is approximately \$318 billion.

19. The second is ether (“ETH”), the native token of the Ethereum blockchain. Ether is used in ways similar to Bitcoin. However, the Ethereum blockchain also enables users to create “smart contracts,” or simple programs that automatically execute when the contract’s conditions are met (for example, distributing funds automatically when a sufficient number of signatures are received). The market capitalization of ETH as of the date hereof is approximately \$149 billion.

20. Another type of cryptocurrency is a “stablecoin.” A stablecoin is a cryptocurrency “pegged,” or tied, to another currency, commodity, or financial instrument. These are designed to reduce volatility and help facilitate transactions on the blockchain. The leading example is United States Dollar Coin (or “USDC”), which is pegged 1:1 with the U.S. Dollar. USDC is collateralized by a pool of cash and short-dated U.S. treasury securities to provide for price stability—for every USDC in circulation, \$1 is held as collateral.

21. There are many other types of cryptocurrencies and other digital assets, each created to serve a particular market purpose. That said, the above should serve as a sufficient backdrop to understand BlockFi’s history and the events that led up to these filings.

II. The Company’s History and Business Operations

22. BlockFi Inc. (with its direct and indirect subsidiaries, “BlockFi”) was founded in 2017 by Zac Prince and Flori Marquez to provide credit services to markets with limited access to simple financial products. BlockFi’s culture embodies four core values: “Pragmatic Pioneering”; “Clients not Customers”; “Individual Effort, Collective Success”; and “Transparency Builds Trust.” These values have been key drivers of BlockFi’s strategy and decision-making, which has

consistently prioritized client protection, stability, and prudent stewardship. BlockFi always endeavored to do things the right way, even when it was difficult, and even when certain of BlockFi's competitors did less to gain a competitive advantage.

23. BlockFi worked to become an industry leader in compliance. Unlike certain competitors, BlockFi never launched its own token to raise funds but instead relied on traditional venture capital. BlockFi was also the first in many states to seek and receive lending licenses to make cryptocurrency-backed loans. As disclosed on its website, <https://blockfi.com/licenses>, BlockFi was issued 47 licenses for lending, money transmission, operations, and the like by 32 states and D.C., and received a separate Class F Digital Business Assets License from Bermuda.

24. In 2021, several U.S. state regulators as well as the SEC sent inquiries focused on whether BlockFi's interest-bearing accounts were, in fact, securities requiring registration with the SEC. BlockFi resolved these disputes with regulators via settlement and, as part of that agreement, agreed to cease offering the then-existing interest-bearing accounts to clients in the United States. As a result of that settlement, BlockFi developed a new product, "BlockFi Yield," and prepared a Form S-1 for BlockFi Yield to be registered with the SEC. BlockFi is the only cryptocurrency platform to have reached such a settlement with the SEC regarding an interest-bearing cryptocurrency account product and pursued the appropriate regulatory process for approval.

25. BlockFi is also an industry leader in transparency. It posts a quarterly transparency report to update its clients about the assets on BlockFi's platform and how BlockFi manages related liquidity and credit risk. BlockFi's most recent transparency report, published in July 2022, described in detail the firm's assessment of its liquidity risks (as well as its guidelines for managing such risks), credit risks and related exposure, and a fair value assessment for institutional and retail

loans. This report (available at <https://blockfi.com/blockfi-transparency-report-Q2-2022>) was and is part and parcel of BlockFi's guiding principle that "Transparency Builds Trust."

26. Among other things, BlockFi was transparent with clients and investors that funds held in BlockFi Interest Accounts and in the Private Client Program, as well as loan collateral for Retail Client Loans (all discussed below), were going to be used for lending to generate the yields provided to clients. BlockFi was forthright about what it would and would not do with funds on its platform—in stark contrast to others reported to have done the opposite.³

27. BlockFi experienced rapid growth; between 2019 and March 2022, total trading volume grew from \$2 million to more than \$23 *billion* as of March 2022 (on an LTM basis), while deployable assets grew from \$345 million to \$14.8 billion, and gross loan originations expanded from \$687 million to more than \$47 billion. As BlockFi's business and operations grew, it expanded its management team and employee base, with a focus on hiring experts from other segments of the financial industry to better mature the nascent cryptocurrency business.

28. As of the Petition Date, BlockFi and its non-Debtor affiliates have approximately 292 employees and 82 independent contractors. But approximately two-thirds of these individuals received Worker Adjustment Retraining Notification ("WARN") notices before these chapter 11 cases as part of a liquidity-preserving reduction in force. Having cut expenses and imposed a materially greater burden on those who remain, BlockFi must take immediate action to retain its workforce, as retaining and motivating personnel is critical to maximize value for clients. BlockFi thus filed on the Petition Date a motion seeking approval of a Key Employee Retention Plan and Targeted Retention Plan to retain remaining non-insider employees and will ask the Court to approve the proposed retention programs at the second-day hearing.

³ See, e.g., Coindesk, *Policy* (Nov. 10, 2022), available at <https://www.coindesk.com/policy/2022/11/10/ftx-violated-its-own-terms-of-service-and-misused-user-funds-lawyers-say/?outputType=amp>.

A. BlockFi’s Client Offerings

29. BlockFi’s business model is client centric, consistent with its core value of “Clients not Customers” and its commitment to prioritizing clients’ best interests. BlockFi acquires clients by offering custom products and services that enable its clients to meet their financial goals, and continuously expands its product suite to deepen its relationship with its clients over time.

30. Generally, BlockFi has two primary types of clients: retail and institutional. As described in more detail below, BlockFi serves retail clients through web and mobile applications, and its products enable individuals and small businesses to store and/or earn interest on, buy and sell, borrow U.S. dollars secured by, and earn (via a credit card rewards program) digital assets. On the institutional front, BlockFi provides hedge funds, market makers, proprietary trading firms, trading desks, cryptocurrency miners, exchanges, and corporations with bespoke financing, trading, and treasury solutions relating to digital assets.

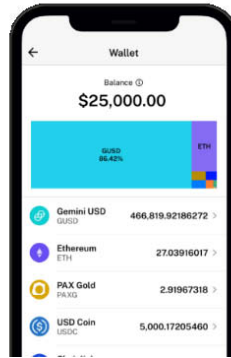
1. Retail Clients

31. Understanding the difficulty many individuals face in entering the investment world, BlockFi created web and mobile applications that enabled its retail clients to easily access, trade, borrow, and store select digital assets.

a. BlockFi Wallet

32. By signing up on the BlockFi platform, BlockFi clients can open an account provided by Debtor BlockFi Trading LLC, which is opened and maintained by Debtor BlockFi Wallet LLC acting for and behalf of BlockFi Trading LLC (a “Customer Wallet Account”). A Customer Wallet Account can be funded either by transferring supported digital assets from a personal wallet to a wallet address provided by BlockFi Trading LLC, which will then immediately record the digital assets to the Customer Wallet Account, or by transferring U.S. dollar fiat

currency via wire or ACH to BlockFi Trading LLC’s account at Silvergate Bank, which is used to purchase supported digital assets immediately recorded in the Customer Wallet Account.⁴



33. Customer Wallet Accounts are non-interest bearing, and the cryptocurrency recorded in a Customer Wallet Account is *not* rehypothecated for lending activities. Instead, all cryptocurrency recorded in Customer Wallet Accounts is held by BlockFi Wallet LLC in digital wallets (collectively the “WLLC Wallet”) such as those provided by Fireblocks or BitGo, or third party custodians.⁵ Only cryptocurrency recorded in Customer Wallet Accounts is held in WLLC Wallets and there is no comingling of this cryptocurrency with assets used in the other BlockFi programs other than, as described below, during the daily true-up period or the initial exchange where cryptocurrency passes through BlockFi Trading⁶ on its way to WLLC Wallets.

⁴ The exception to this is residents of New York who have a crypto-backed loan but who do not have a BlockFi Wallet account.

⁵ As of the Petition Date, BlockFi Wallet LLC no longer uses third party custodians. Fireblocks and BitGo provide self-hosted wallet software to their clients. This software allows customers, such as BlockFi Wallet, to securely manage and retain custody of their private keys and thereby retain full custody of digital assets. Only BlockFi Wallet (and not Fireblocks or BitGo) can access the private keys and, therefore, control the transfer of crypto in WLLC Wallets.

⁶ In past periods BlockFi Trading also held *de minimis* amounts of inventory designed to facilitate transactions for Wallet customers. As of the Petition Date, BlockFi Trading no longer holds inventory for trading and all digital assets are held in the WLLC Wallets.

34. A Customer Wallet Account can be used by retail clients in connection with BlockFi's other products and services. For example, after opening a Customer Wallet Account, clients can (a) (for non-U.S. clients) direct the transfer of cryptocurrency recorded in their Customer Wallet Account to an interest earning account, (b) buy and sell cryptocurrency on BlockFi's platform, (c) direct transfers of cryptocurrency or fiat cash to the client's personal account, and (d) receive digital asset rewards through the Rewards Card (as defined below).

35. All transactions involving Wallet Customer Accounts are reflected in the ledger of BlockFi Wallet LLC (the "Wallet Ledger"). Each day, the WLLC Wallets and Wallet Ledger are trued up and any necessary transfers of cryptocurrency to or from the WLLC Wallet are made to bring the WLLC Wallet and the Wallet Ledger into balance to reflect all Customer Wallet Account transactions. BlockFi Wallet LLC maintains these strict controls to ensure compliance with the BlockFi Wallet Terms of Service, which provide that:

The title to the cryptocurrency held in your BlockFi Wallet shall at all times remain with you and shall not transfer to BlockFi. You hereby represent and warrant to us at all times during which you maintain a balance in your BlockFi Wallet that: (i) any cryptocurrency that you transferred into your BlockFi Wallet is owned by you at the time of transfer; and (ii) you are validly authorized to instruct us to carry you transactions relating to your BlockFi Wallet balance and that all transactions initiated with your BlockFi Wallet are for your own account (or, in the case of business accounts, for your business's account) and not on behalf of any other person or entity. Except as required by a valid court order or applicable law, BlockFi shall not sell, transfer, loan, hypothecate or otherwise alienate cryptocurrency held in your BlockFi Wallet unless specifically instructed by you. <https://blockfi.com/wallet-terms>.

36. While title to cryptocurrency held in Customer Wallet Accounts does not pass to the Debtors, the Terms of Service do grant the Debtors a security interest in the cryptocurrency to secure any obligations a customer may have in connection with other BlockFi services and products. Based on these terms, the Debtors intend to seek authority to honor client withdrawal requests from Customer Wallet Accounts during the early stages of these chapter 11 cases.

b. BlockFi Interest Accounts

37. BlockFi clients can also earn money through a BlockFi Interest Account (“BIA”). BIAs are interest-bearing accounts that allow clients to earn interest on supported digital assets. BIA interest is paid in the form of digital assets at variable rates determined at BlockFi’s sole discretion. Before the pause on client withdrawals, a BIA holder could request a complete or partial withdrawal of principal at any time for digital assets of the same number and type as those transferred to the account, subject to the account terms.

38. BlockFi has the contractual right to redeploy digital assets transferred to a BIA account for its revenue-generating activities. More specifically, BlockFi has the right, without further notice to a BIA client, to pledge, repledge, hypothecate, rehypothecate, sell, lend, or otherwise transfer, invest, or use any amount of digital assets transferred to a BIA, separately or together with other property, with all attendant rights of ownership, for any period of time and without retaining in BlockFi’s possession and/or control a like amount of digital assets.

39. The BIA agreement is with (and administered by) either BlockFi Inc. (US clients) or BlockFi Intl. (non-U.S. clients). In February 2022, BIAs of non-U.S. clients were moved from BlockFi Lending to BlockFi Intl., and in April 2022, BIAs of U.S. clients were moved from BlockFi Lending to BlockFi Inc.

c. BlockFi Private Client Program

40. In addition to BIAs, which generally have standardized terms applicable to all holders, BlockFi provides an individually negotiated interest-bearing borrowing product to eligible clients as part of its BlockFi Private Client suite of products (“BPC”). The BPC product suite permits clients to lend digital assets to BlockFi on individually negotiated terms, which may lead to individually negotiated terms for other products and services. BPC loan interest is paid in the form of digital assets at a negotiated rate. A BPC loan may be structured as an “open” term (*i.e.*,

the BPC client may request that BlockFi repay the loan at any time) or a “fixed” term (*i.e.*, the loan has a negotiated maturity date).



41. BlockFi has the right to redeploy digital assets borrowed under a BPC loan for its revenue-generating activities. More specifically, BlockFi has the right, without further notice to a BPC client, to pledge, repledge, hypothecate, rehypothecate, sell, lend, or otherwise transfer, invest, or use any amount of digital assets borrowed under a BPC loan, separately or together with other property, with all attendant rights of ownership, and for any period of time and without retaining in BlockFi’s possession and/or control a like amount of digital assets.

42. BPC loan agreements are with (and administered by) either BlockFi Lending (U.S. clients) or BlockFi Intl. (non-U.S. clients).

d. BlockFi Retail Client Loans

43. BlockFi’s retail clients are able to borrow U.S. dollar or stablecoins (e.g., USDC, GUSD, or PAX) from BlockFi secured by certain types of digital asset collateral (BTC, ETH, LTC, or PAXG). U.S.-based loans are serviced by an outside provider, Scratch, while international-based loans are serviced by BlockFi. BlockFi’s retail loans are collateralized at origination as clients may borrow funds with a value of, generally, up to 50% of their collateral. Interest rates for retail loans are based on the level and type of digital asset collateral.

44. BlockFi’s retail loans are subject to margin calls and/or liquidation based on specified loan-to-collateral value ratios. If a client with a BIA elects to use as collateral digital assets that have been transferred to BlockFi through the BIA, the digital assets will cease to earn

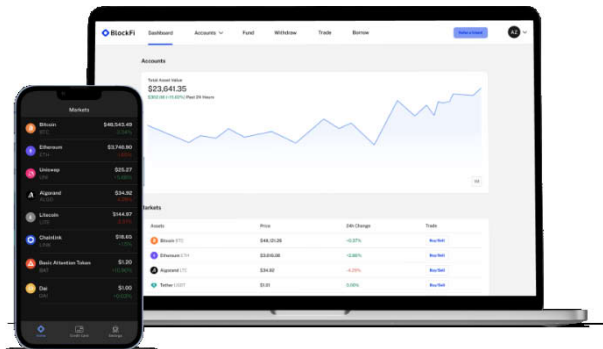
interest. Once a client has repaid a retail loan in full, he or she can elect to have the loan collateral returned to their BlockFi Wallet. For U.S. retail clients, once collateral is released, it cannot be sent to their BIA from the BlockFi Wallet to earn interest. For non-U.S. retail clients, however, once collateral is released, it can be transferred to the BIA from the BlockFi Wallet to earn interest.

45. BlockFi has the right to redeploy retail client loan collateral for its revenue-generating activities. More specifically, BlockFi has the right, without further notice to a retail loan client, to pledge, repledge, hypothecate, rehypothecate, sell, lend, or otherwise transfer, invest, or use any retail client loan collateral, separately or together with other property, with all attendant rights of ownership, and for any period of time and without retaining in BlockFi's possession and/or control a like amount of assets.

46. Since March 2022, all non-U.S. client retail loan agreements have first been entered into with BlockFi Lending, and then assigned to BlockFi International (non-U.S. client retail loan agreements entered into before March 2022 were also assigned by BlockFi Lending to BlockFi International.).

e. BlockFi Retail Client Trading

47. BlockFi's retail clients can buy, sell, and exchange digital assets supported by BlockFi. BlockFi acts as principal in trading transactions with retail clients and may earn a spread from the prevailing market price in these transactions.

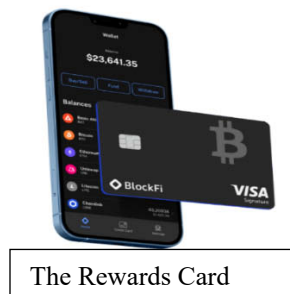


48. Retail trading agreements are with (and administered by) either BlockFi Trading (U.S. clients) or BlockFi Intl. (non-U.S. clients). BlockFi Trading typically executes trades for all digital assets BlockFi supports in the U.S. BlockFi Intl. also can execute trades for digital assets BlockFi supports in the U.S., and BlockFi Intl. executes all trades for digital assets BlockFi supports for only non-U.S. clients.

f. BlockFi Rewards Card Program

49. The BlockFi Credit Card Rewards Program (the “Rewards Program”) allows certain eligible U.S. clients to earn Points, which are redeemed for cryptocurrency rewards. To participate in the Rewards Program, eligible clients must: (a) have a BlockFi Wallet; (b) apply for and be issued a BlockFi Rewards Visa® Signature Card (the “Rewards Card”); (c) hold their Rewards Card in good standing; and (d) not be past due by more than two monthly payments on their Rewards Card at the time of earning Points or redeeming such Points. Clients earn Points, which are redeemed monthly for cryptocurrency at the then-current market price(s) (subject to applicable spreads, charges, or fees), by using the Rewards Card on certain qualifying purchases.

50. BlockFi’s Crypto Rewards Account (“Rewards Account”) is a non-interest-bearing account that allows clients to hold cryptocurrency earned from the Rewards Program. All Rewards are automatically transferred from the Rewards Account to the BlockFi Wallet, monthly.



On November 16, 2022, Visa sent BlockFi a letter purporting to terminate the parties’ relationship. The Debtors have reserved all rights, but the BlockFi Rewards Visa is no longer active.

2. Institutional Clients

51. Like retail clients, BlockFi institutional clients can also open a BlockFi Wallet to store digital assets or earn interest through interest earning accounts. But given the more bespoke needs of its institutional clients, BlockFi also offers a custom suite of services as well.

52. BlockFi requires institutional clients to complete a rigorous onboarding process, including anti-money laundering and sanctions screenings, before borrowing. Each client also undergoes credit due diligence, and BlockFi's credit risk underwriting team sets credit limits. Based on the results of BlockFi's diligence process, BlockFi may require borrowers to provide collateral for lending activity ranging from zero to more than 100% of the loan principal (as appropriate).

53. BlockFi's financing desk enables qualifying institutional clients like hedge funds, market makers, proprietary trading firms, over-the-counter trading desks, and other corporations to obtain digital asset or U.S. dollar financing. Interest on those loans is typically fixed and payable in kind, monthly in arrears, and durations on those loans are often under a year.

54. BlockFi also offers institutional clients custom trading services with advanced trading features such as real-time quotes, a variety of order types, and trading algorithms through either voice, a web interface, or application programming interface. BlockFi either acts as a principal or agent in trading transactions with its institutional clients and may earn a spread from the prevailing market price in connection with these transactions. As it would with retail client trading, BlockFi would either enter a hedging transaction or internalize the trade itself.

B. BlockFi's Approach to Risk Management

55. In connection with providing the services listed above to clients, BlockFi maintains well-developed, transparent risk management procedures and policies that are described in detail on the firm's website. See <https://blockfi.com/in-depth-look-at-blockfis-risk-management>.

BlockFi's risk management processes have been enhanced and updated over time as BlockFi has grown and learned from its accumulated experience and expertise.

56. For example, in 2020 and early 2021, BlockFi experienced losses associated with investments and loans collateralized by Grayscale shares as spreads widened against the price of underlying Bitcoin. Recognizing the need for better controls, BlockFi reorganized its risk governance, hired a new risk officer and risk management staff, and enhanced the transparency of its procedures and risk protocols. BlockFi's board of directors established a dedicated Audit and Risk Committee to set risk appetite and manage financial and non-financial risks across BlockFi's institutional and retail businesses.

57. The Audit and Risk Committee is directly responsible for, among other things:

- overseeing the audit of BlockFi's consolidated financial statements by an independent registered accounting firm;
- considering the adequacy and effectiveness of internal controls;
- reviewing and overseeing BlockFi's policies related to its enterprise risk management framework, setting the risk appetite for the company, and monitoring the company's risk profile, risk exposure and compliance risks; and
- reviewing related party transactions.

58. The risk management function at BlockFi is independent from BlockFi's core business and reports to the CEO and to the Audit and Risk Committee. The risk management team uses a comprehensive framework to identify and manage liquidity risk, credit risk, market risk, and enterprise risk, which (again) is publicly disclosed. Those leading BlockFi's risk management function are veterans of the traditional financial industry with decades of experience in identifying and managing risk in credit and trading operations in accordance with the company's risk governance and risk appetite.

III. The Debtors' Prepetition Corporate and Capital Structure

A. The Debtors' Corporate Structure

59. As set forth on the structure chart attached as Exhibit B, BlockFi Inc. has twelve wholly-owned subsidiary entities that are organized under the laws of Delaware, Bermuda, England and Wales, Cayman, and Singapore. BlockFi Inc. currently directly or indirectly owns 100% of the equity in each of the other Debtors. BlockFi Inc. also owns 100% of the equity in non-Debtors BlockFi Holding UK Limited (directly) and BlockFi Cayman LLC, BlockFi UK Ltd., and BlockFi Asia PTE Ltd. (indirectly), and 50% of non-Debtor BV Power Alpha LLC.

60. Before the addition of the Independent Directors, described below, the Board of Directors of BlockFi Inc. (the "Board") was made up of BlockFi's co-founders Zac Prince and Flori Marquez, Tony Lauro, who formerly served as BlockFi's CFO, and Jennifer Hill.

61. The operations of the Debtor entities are interrelated, regularly requiring transfers and transactions between the different Debtor entities (together, the "Intercompany Transactions"). The primary Debtor entities involved in the Intercompany Transactions are: BlockFi Inc. (a Delaware entity); BlockFi Trading (a Delaware entity); BlockFi Wallet (a Delaware entity); BlockFi Lending (a Delaware entity); and BlockFi Intl. (a Bermuda entity).

62. The intercompany balances generally arise from several different types of transactions and intercompany agreements (some of which are described above in Section II.A), such as agreements related to the execution of trades in various cryptocurrencies, intercompany service agreements, and capital contributions pursuant to capital contribution agreements. During the prepetition period, the Debtors tracked these transactions, and their books and records reflect intercompany balances between entities, including balances believed to be owed and due between certain of the Debtor entities as of the Petition Date.

63. Recognizing that the historical Intercompany Transactions and accompanying intercompany balances create the possibility of actual or perceived conflicts between the different entities during the course of these chapter 11 cases, the Debtors took steps to bolster their corporate governance before the Petition Date. More specifically, the Debtors installed independent directors or managers, as applicable, at each of BlockFi Inc., BlockFi Trading, BlockFi Wallet, BlockFi Lending, and BlockFi Intl. (collectively, the “Independent Directors”), as follows:

Entity	Independent Director
BlockFi Inc.	Scott Vogel & Jennifer Hill ⁷
BlockFi Lending	Harvey Tepner
BlockFi Wallet	Pamela Corrie
BlockFi Trading	Alan Carr
BlockFi Intl.	Jill Frizzley

64. The Independent Directors, with the assistance of Debtors’ counsel Kirkland & Ellis LLP, have been tasked with investigating, among other things, any conflict matters, which will include any material Intercompany Transactions from the prepetition period and any insider transactions. The Independent Directors will assess whether the Intercompany Transactions give rise to any valuable claims against other Debtor entities, as well as determining the validity and proper treatment of any current intercompany balances.

65. In addition, as described above, BlockFi Intl. is a Bermuda incorporated company and, as such, its board of directors has determined that it would be appropriate, in parallel with these chapter 11 cases, to petition the Supreme Court of Bermuda (the “Bermuda Court”) for the appointment of joint provisional liquidators (the “JPLs”) pursuant to section 161(e) of Bermuda’s

⁷ Ms. Hill has been a member of the BlockFi Inc. Board since 2021. She was appointed to the Special Committee of the BlockFi. Inc. Board along with Mr. Vogel. Given her prior connection with BlockFi, however, Ms. Hill will recuse herself from the investigation the Special Committee has commenced related to the June 2022 transactions between BlockFi and FTX and any other work that presents an actual or potential conflict.

Companies Act, 1981 in the near term (the “Bermuda Proceedings”). The JPLs will act as officers of the Bermuda Court and will be required to report to the Bermuda Court from time to time on the progress of the parallel chapter 11 proceedings.

66. The Bermuda Proceedings are being commenced with a view to ensuring that an orderly restructuring of BlockFi Intl. can be undertaken in the chapter 11 cases. The appointment of the JPLs will trigger a stay of proceedings against BlockFi Intl. under Bermuda law, thereby preventing any party from continuing or bringing proceedings during the reorganization process. The terms of the order sought for appointment of the JPLs provides for the continuation of the current management team during this process, with the JPLs overseeing management.

B. The Debtors’ Capital Structure

1. The FTX Loan Agreement

67. On June 30, 2022, BlockFi Inc., as borrower, entered into a loan agreement with West Realm Shires Inc. (d/b/a FTX US, “FTX US”), as lender (the “FTX Loan Agreement”), which provides for loans (the “Loans”) to be made to BlockFi Inc. in an amount of up to \$400 million outstanding at any time, of which: (a) \$300 million is available for general corporate purposes; and (b) \$100 million is available solely to fund BlockFi Inc.’s obligations to its clients (the “Client Payment Obligations”). BlockFi Inc.’s obligations under the FTX Loan Agreement are guaranteed by BlockFi Trading and BlockFi Lending (together, the “Guarantors”).

68. The Loans (a) are *pari passu* in right of payment with all other senior unsecured indebtedness of BlockFi Inc. and the Guarantors and (b) rank junior to the Customer Liabilities.⁸

⁸ Customer Liabilities are defined as “obligations to clients incurred by [BlockFi Inc., the Guarantors] or any of [their] Subsidiaries in connection with (x) the BlockFi Interest Account, BlockFi Yield, BlockFi Personalized Yield or BlockFi Wallet products, (y) custody arrangements and collateral arrangements relating to loans made to clients and (z) any other similar products or services provided to clients by [BlockFi Inc., the Guarantors] or any of [their] Subsidiaries.”

The Loans bear interest at a fixed rate of 5.00% per annum, payable at maturity. Loans may be made in USDC, the digital asset issued by the Centre Consortium, and are redeemable 1:1 for U.S. dollar, or other digital asset or fiat currency as mutually agreed to between the parties.

69. BlockFi Inc. is contractually able to borrow under the FTX Loan Agreement, subject to certain funding conditions, until the earlier of (a) June 30, 2027, (b) any earlier termination of the FTX Loan Agreement in accordance with its terms, or (c) the termination or revocation of the FTX Option Agreement (as defined below) (whether by exercise or otherwise). BlockFi Inc. will be required to repay all outstanding amounts under the FTX Loan Agreement on the earlier of June 30, 2027, or any earlier termination of the FTX Loan Agreement in accordance with its terms (the termination or revocation of the FTX Option Agreement will not result in the termination of the FTX Loan Agreement).

70. As part of the consideration for the FTX Loan Agreement, BlockFi Inc. entered into an option agreement with FTX US and with respect to certain matters, FTX Trading Ltd (the “FTX Option Agreement”). The FTX Option Agreement provides FTX US the unconditional, irrevocable, and exclusive option, but not the obligation, to acquire BlockFi Inc. by requiring BlockFi Inc. to redeem and cancel all equity securities of BlockFi Inc., other than equity securities issued to FTX US.

71. On November 8, 2022, the Debtors requested an additional \$125 million of borrowings pursuant to the terms of the FTX Loan Agreement, which FTX did not provide. On November 11, 2022, the various FTX entities began to commence voluntary cases under chapter 11 of the Bankruptcy Code in the United States District Court for the District of Delaware.

72. As of the Petition Date, there is approximately \$275 million of USD stablecoins⁹ Loans outstanding under the FTX Loan Agreement.

2. Common Stock in BlockFi Inc.

73. BlockFi Inc. has two types of common equity: (a) common stock (the “Common Stock”) and (b) special voting stock (“Special Voting Stock”). As of the Petition Date, BlockFi Inc. has 6,508,898 shares of Common Stock outstanding and 1 share of Special Voting Stock outstanding. The Special Voting Stock was issued to FTX US under the FTX Option Agreement.

3. Preferred Stock in BlockFi Inc.

74. BlockFi Inc. has ten series of preferred stock (collectively, the “Preferred Stock”). As of the Petition Date, there are 45,312,958 outstanding shares of Preferred Stock outstanding, which are held by a variety of institutional investors, as follows:

Type	Total Shares Outstanding
Series Seed Preferred	2,833,977
Series Seed-2 Preferred	1,167,941
Series A-1 Preferred	3,109,745
Series A-2 Preferred	127,210
Series A-3 Preferred	7,753,114
Series B Preferred	9,837,208
Series C Preferred	7,642,144
Series D Preferred	9,739,310
Series E Preferred	2,442,193
Series E-1 Preferred	660,116

⁹ FTX stated in its First-Day Declaration within its bankruptcy filing that BlockFi borrowed \$250 million of FTT. See Decl. of John J. Ray III in Support of Chapter 11 Petitions and First Day Pleadings, *In re FTX Trading Ltd.*, No. 22-11068 (JTD) (Bankr. D. Del. Nov. 17, 2022), Dkt. No. 24, ¶ 17. That statement is incorrect.

75. Between 2019 to 2021, BlockFi Inc. completed five preferred stock financing transactions to raise capital, as follows:

- **Series A Preferred Stock.** From July to August 2019, BlockFi Inc. sold an aggregate of 13,259,229 shares of its Series A-1 preferred stock, Series A-2 preferred stock, and Series A-3 preferred stock. BlockFi Inc. issued an aggregate of 3,902,716 shares of Series A-1 preferred stock at a price of \$1.0641 per share, 190,815 shares of Series A-2 preferred stock at a price of \$1.5722 per share, and 9,165,698 shares of Series A-3 preferred stock at a purchase price of \$1.7476 per share for an aggregate purchase price of \$20.5 million, of which \$16.0 million was paid in cash and \$4.5 million was paid through the conversion and cancellation of convertible promissory notes and agreements for future equity issued by BlockFi Inc.
- **Series B Preferred Stock.** From January to February 2020, BlockFi Inc. sold an aggregate of 9,907,010 shares of its Series B preferred stock, at a cash purchase price of \$3.78952 per share, for an aggregate purchase price of \$37.5 million.
- **Series C Preferred Stock.** From August to September 2020, BlockFi Inc. sold an aggregate of 7,081,821 shares of Series C preferred stock, at a cash purchase price of \$9.5138 per share, for an aggregate purchase price of \$67.4 million.
- **Series D Preferred Stock.** From March to May 2021, BlockFi Inc. sold an aggregate of 9,415,382 shares of Series D preferred stock, at a cash purchase price of \$58.737 per share, for an aggregate purchase price of \$553.0 million.
- **Series E Preferred Stock.** From July to August 2021, BlockFi sold an aggregate of 2,442,193 shares of Series E preferred stock and 660,116 shares of Series E-1 preferred stock, in each case at a cash purchase price of \$75.7442 per share, which included 1,551,147 warrants, each of which grants the holder the right to purchase either a share of Series E preferred stock or a share of Series E-1 preferred stock, at the holder's option, in each case at a strike price of \$75.7442 per share, for an aggregate purchase price of \$235.0 million.

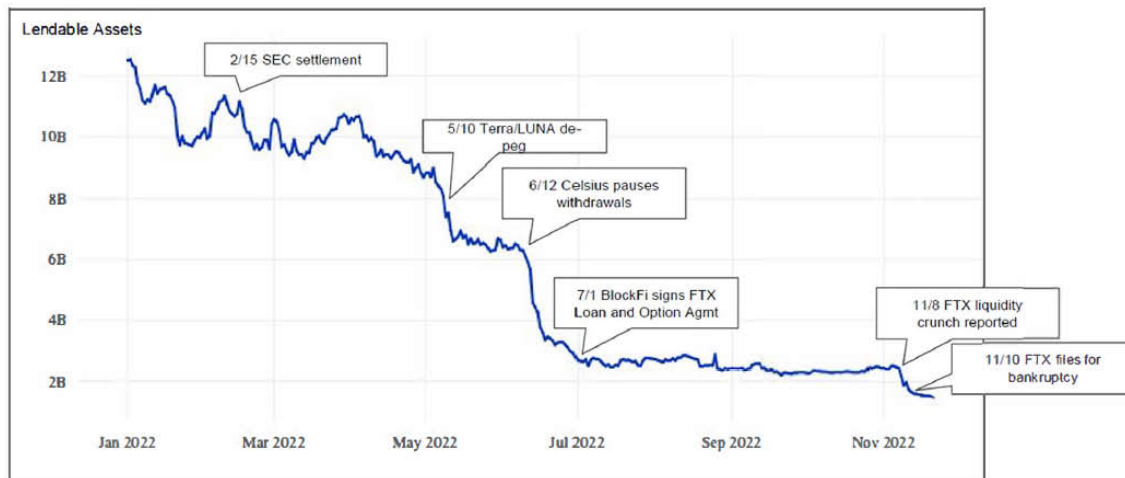
76. In connection with certain of the foregoing preferred stock financing transactions, BlockFi Inc. repurchased certain classes of Preferred Stock and Common Stock in varying amounts for cash consideration.

IV. Events Leading to Bankruptcy

77. Many cryptocurrencies experienced significant decline through 2022. Just by way of example, Bitcoin has slumped approximately 65% year-to-date. A chart showing the decline in Bitcoin prices between January 1, 2022 and November 25, 2022¹⁰ is copied below:



78. As investor pessimism grew—exacerbated by the collapse of 3AC (defined below), the Voyager and Celsius bankruptcy filings, and ultimately FTX’s implosion—the cryptocurrency industry experienced significant declines. Declining investor confidence in the industry more broadly led significant numbers of BlockFi’s clients to withdraw from its product offerings:



¹⁰ https://ycharts.com/indicators/bitcoin_price (Nov. 25, 2022)

79. These market headwinds drove BlockFi to take several actions throughout the year that would enable it to acquire the liquidity necessary to protect its clients' accounts (detailed below). These chapter 11 cases are the latest such action.

80. For BlockFi, 2022 can be split into two acts that culminated in these filings: first, the overall cryptocurrency industry incidents that led BlockFi to seek additional liquidity, which was ultimately provided by FTX, and second, the collapse of FTX.

A. Act One: Overall Industry Pullback

81. Crypto's 2022 pullback began with the collapse of Luna, a cryptocurrency issued by Terra, an open-source blockchain protocol. Terra issued the cryptocurrency Luna to execute transactions on the Terra blockchain. In early May 2022, Luna was trading at \$86 per token and had a market capitalization of approximately \$14 billion. Along with Luna, Terra issued TerraUSD ("UST"), an algorithmic stablecoin that was pegged at \$1.

82. On May 7, 2022, \$2 billion of UST was unstaked and immediately sold. This dropped UST's price to \$0.91. UST holders saw the "de-peg" and rushed to unstake and sell their coins.

83. Traders redeemed UST for Luna and sold their Luna, leading to a significant decrease in its price. Simultaneously, other traders attempted to repeg Luna to UST by burning UST to create Luna, which in turn created an oversupply of Luna and further exacerbated its price decline. In one week, Luna's price fell from \$82.55 to \$0.000001 per token, eliminating \$18 billion of value in the cryptocurrency sector.

84. Many cryptocurrency-focused hedge funds, and other cryptocurrency companies, owned Luna. Some were unable to sell their Luna under staking agreements and were forced to incur up to a 99% loss on their investment. And approximately a month later, reportedly due in part to the collapse of Luna, a major player in the space, Three Arrows Capital ("3AC") collapsed.

85. On June 15, 2022, 3AC confirmed that it had suffered at least some loss from the Luna collapse and that it had hired legal and financial advisors to explore potential liquidity solutions. Shortly thereafter, on June 27, 2022, 3AC was ordered by a court in the British Virgin Islands to commence liquidation proceedings.

86. In addition to 3AC, several prominent cryptocurrency lenders faced challenges in June and July 2022. On June 12, 2022, Celsius announced that it was pausing client withdrawals, sparking market volatility and widespread speculation about contagion among cryptocurrency lenders. On July 1, 2022, Voyager, a cryptocurrency brokerage and lender publicly listed on the Toronto Stock Exchange, announced it was pausing customer trading, deposits, and withdrawals. On July 5, 2022, Voyager filed for chapter 11. On July 13, 2022, Celsius also filed for chapter 11.

87. BlockFi had no direct exposure to Celsius, Luna, Terra, or Voyager, outside of offering clients facing BlockFi International the ability to trade Luna on its retail trading platform. During this period of market disruption, BlockFi took swift action to de-risk itself of exposure to 3AC, but could not totally evade the harm. 3AC was one of BlockFi's largest borrower clients, and its collapse, along with several other borrowers, led to material losses for BlockFi. The collapse of UST, along with the halting of withdrawals and bankruptcies of Celsius, Voyager and 3AC, led to significant customer withdrawals from BlockFi.

88. While BlockFi was able to withstand the loss from 3AC and other borrowers and process all customer withdrawals within the normal periods set forth in its customer agreements, it prudently sought additional liquidity to protect its client accounts into the indefinite future.

89. BlockFi first attempted to obtain equity financing from third-party investors in a new financing round. But due to the unfavorable market and investor pessimism, these attempts were unsuccessful. BlockFi then considered several other potential transactions. This rapid

financing process led to an offer from FTX to essentially backstop customer withdrawals: FTX US committed to loan up to \$400 million notional amount of cryptocurrencies to BlockFi on a junior basis to BlockFi's obligations to its clients, while FTX US received an option to acquire BlockFi, which FTX US would have been permitted to exercise as early as July 2023. The FTX transaction was supported by BlockFi's shareholders, who voted 89% in favor of the transaction.

90. The offer imposed steep costs on BlockFi personnel and shareholders. To secure liquidity for its clients, BlockFi's executives and employees were required to (and did) sacrifice hundreds of millions of dollars of their own equity value. BlockFi accepted the offer because—for BlockFi's leadership and employees—client protection remains paramount. The offer from FTX was determined to be the best and most viable by BlockFi's management team and Board of Directors. In addition, BlockFi significantly reorganized its workforce, reducing headcount by over 20% in a further effort to protect client value and chart a return to profitability.

91. Support from FTX, with its highly visible brand, bolstered customer confidence in the strength and safety of BlockFi's platform. And indeed, throughout the summer of 2022, BlockFi maintained its operations while several other trading platforms and exchanges were forced to declare bankruptcy. Unfortunately, FTX's apparent "rescue" was short-lived.

B. Act Two: Collapse of FTX and the Debtors' Response

92. Before the "rescue" transaction with FTX, BlockFi acted as a lender to Alameda, one of the FTX companies (starting in 2019) and traded on the FTX platform (starting in 2021). The amounts of BlockFi's loans to Alameda have varied over time and typically consisted of digital assets (primarily BTC and ETH) and USD-denominated stablecoins. As part of BlockFi's credit evaluation process, BlockFi received unaudited quarterly financial statements and certain verifiable financial information, such as cryptocurrency wallet addresses, and had regular dialogue

with Alameda staff, who made ongoing representations regarding its financial standing, significant equity capital, and unencumbered assets on Alameda’s balance sheet.

93. On November 2, 2022, public reports began to circulate citing leaked, internal financial statements and questioning the health and liquidity of both FTX and Alameda Research. That and other public reporting began a death spiral for FTX. Binance, FTX’s largest rival, soon stated that it would liquidate its entire position in FTT, FTX’s native exchange token.¹¹ Binance’s founder compared FTT to Luna, stating: “Liquidating our FTT is just post-exit risk management, learning from LUNA. We gave support before, but we won’t pretend to make love after divorce.”¹² After Binance’s announcement, many investors followed suit. In 2 days, FTT fell from trading at \$22.06 to \$3.38:



¹¹ @CZ_Binance, Twitter (Nov. 6, 2022) (“Due to recent revelations that have come to light, we have decided to liquidate any remaining FTT on our books.”)

¹² @CZ_Binance, Twitter (Nov. 6, 2022)

94. On November 8, FTX’s CEO stated publicly that, among other things, FTX was experiencing a “liquidity crunch” due to user withdrawals.¹³ Hoping to stall the collapse, FTX sought to be acquired by Binance. While Binance reportedly signed a non-binding letter of intent, it later demurred, stating publicly that “[a]s a result of corporate due diligence, as well as the latest news reports regarding mishandled customer funds and alleged US agency investigations, we have decided that we will not pursue the potential acquisition of FTX.com.”¹⁴ On November 11, FTX began filing for bankruptcy.¹⁵

95. The first-day Declaration in FTX’s Delaware proceedings would make clear why. Filed on November 17, 2022, the new CEO, John J. Ray III, explained, “[n]ever in my career have I seen such a complete failure of corporate controls and such a complete absence of trustworthy financial information as occurred here. From compromised systems integrity and faulty regulatory oversight abroad, to concentration of control in the hands of a very small group of inexperienced, unsophisticated, and potentially compromised individuals, this situation is unprecedented.”¹⁶

96. As in the previous episode of market stress, BlockFi took several proactive measures to attempt to limit its exposure to FTX and Alameda through a combination of margin calls and recalls of open-term loans. In early November 2022, BlockFi made an additional borrowing request per the terms of the FTX Loan Agreement, which was not honored. Alameda thereafter defaulted on approximately \$680 million of collateralized loan obligations to BlockFi, the recovery on which is unknown.

¹³ @SBF_FTX, Twitter (Nov. 8, 2022).

¹⁴ @Binance, Twitter (Nov. 9, 2022).

¹⁵ @SBF_FTX, Twitter (Nov 11, 2022).

¹⁶ Declaration of John J. Ray III In Support of Chapter 11 Petitions and First Day Pleadings, *In re FTX Trading LTD.*, No. 22-11068, ¶ 5 (Bankr. D. Del. Nov. 17, 2022).

97. In response to failures of the FTX companies to meet their obligations to BlockFi, BlockFi again faced a liquidity shortage. So, to avoid a disorderly series of withdrawals that would harm many clients, on November 10, 2022, BlockFi decided to limit platform activity, including pausing customer withdrawals, as allowed under BlockFi's terms.¹⁷

98. The FTX companies began commencing chapter 11 cases in the United States Bankruptcy Court for the District of Delaware early in the morning on November 11, 2022.¹⁸ Recognizing that BlockFi could not due to these and other circumstances restore its liquidity alone, BlockFi's Board and management sought the support of veteran restructuring advisors to navigate its uncertain position, proceeding to engage BRG, Kirkland & Ellis LLP, longtime corporate counsel Haynes and Boone LLP, Cole Schotz P.C. as New Jersey Counsel, and Moelis & Company to assist with contingency planning and liquidity management, among other tasks. Ultimately, BlockFi, with the aid of its advisors, determined the commencement of these cases was necessary to protect its clients and maximize value for all stakeholders.

99. In preparation for these chapter 11 cases, BlockFi took steps to liquidate certain of its owned cryptocurrency to bolster available cash to fund its business and administrative costs. Through this process, BlockFi was able to raise \$238.6 million of additional cash, for a total unencumbered cash position as of the Petition Date of \$256.5 million. BlockFi currently expects that this cash position will be sufficient to fund the costs of these chapter 11 cases and is not seeking approval of debtor-in-possession financing at this time.

¹⁷ November 11, 2022 BlockFi Update (Nov. 11, 2022), <https://blockfi.com/november-11-2022-blockfi-update>

¹⁸ *In re FTX Trading, Ltd.*, No. 22-1068 (JTD) (Bankr. D. Del. Nov. 11, 2022). Filings of various other entities related to FTX continued for several days. The first day hearing in the FTX bankruptcy cases occurred on November 22, 2022.

100. The challenges faced by cryptocurrency firms this year have been unprecedented for their industry. BlockFi's careful actions and decisive planning offer reason to believe that BlockFi clients may ultimately recover a substantial portion of their investments as BlockFi aims to maximize value for its constituents and position its business for success into the future.

101. Following the Petition Date, the Debtors will continue to analyze and expeditiously pursue an appropriate exit strategy. In part because of the careful work, prudent stewardship, and risk management processes implemented by BlockFi prepetition, the Debtors believe they are well-positioned to maximize value for stakeholders. Accordingly, the Debtors have filed a proposed Plan of Reorganization on the first day of these chapter 11 cases that, if confirmed, would allow the Debtors to emerge as reorganized debtors on the most expedited timetable that is realistic. Recent revelations and things-still-unknown regarding FTX (and the cascading impact thereof on cryptocurrency markets) cloud that path, but the Debtors will fight to maximize client recoveries. The Debtors, with the assistance of their advisors, will also consider all strategic alternatives and third-party solutions that emerge during the course of these cases.

Evidentiary Basis for Relief Requested in the First Day Motions

102. Contemporaneously with the filing of this Declaration, the Debtors have filed a number of First Day Motions seeking relief to minimize the adverse effects of the commencement of these chapter 11 cases on their business and to ensure that their reorganization strategy can be implemented with limited disruptions to operations.

103. Approval of the relief requested in the First Day Motions is critical to the Debtors' ability to continue operating their business with minimal disruption and thereby preserve value for the Debtors' estates and various stakeholders. I have reviewed each of the First Day Motions and I believe that the relief sought therein is necessary to permit an effective transition into chapter 11. I believe that the Debtors' estates would suffer immediate and irreparable harm absent the ability to make certain essential payments, and otherwise continue their business operations as sought in the First Day Motions. A list of the First Day Motions is set forth on **Exhibit A** attached hereto and Exhibit A is incorporated herein by reference.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge, information, and belief.

Dated: November 28, 2022

By: /s/ Mark A. Renzi

Name: Mark A. Renzi

Title: Managing Director and the Head of the
Corporate Finance Financial Institutions Group

Berkeley Research Group, LLC

EXHIBIT A

First Day Motion Support

Evidentiary Support for First Day Motions

1. Contemporaneously herewith, the Debtors have filed a number of First Day Motions seeking orders granting various forms of relief intended to stabilize the Debtors' business operations and facilitate the efficient administration of these chapter 11 cases (the "Chapter 11 Cases"). The First Day Motions include the following:¹

- **Joint Administration Motion.** *Debtors' Motion for Joint Administration;*
- **Case Management Motion.** *Debtors' Motion to Establish Certain Notice, Case Management and Administrative Procedures;*
- **Creditor Matrix Motion.** *Debtors' Motion for Entry of an Order (I) Authorizing the Debtors to File a Consolidated List of Top 50 Unsecured Creditors and Consolidated List of Creditors, (II) Authorizing the Debtors to Redact Certain Personally Identifiable Information of Individual Creditors, Clients, Equity Holders, and Current and Former Employees, (III) Authorizing Client Name Redaction, (IV) Waiving the Requirement to File an Equity List and Provide Notices Directly to Equity Security Holders and (V) Granting Related Relief;*
- **Schedules/SOFAs Extension Motion.** *Debtors' Motion for Entry of an Order Extending the Time to File Schedules and Statements;*
- **Notice & Agent Application.** *Debtors' Application Pursuant to 28 U.S.C. § 156(c) and 11 U.S.C. § 105(a) for Entry of an Order Authorizing the Appointment of Krull Restructuring Administration LLC as Claims and Noticing Agent Nunc Pro Tunc to the Petition Date;*
- **Cash Management Motion.** *Debtors' Motion Seeking Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Continue to Use of Existing Business Forms and Records, (B) Maintain Existing Corporate Bank Accounts and Cash Management System, (C) Pay Prepetition Bank Fees Associated with the Cash Management System, and (D) Continue Performance of Intercompany Transactions, (II) Granting Superpriority Administrative Expense Status to Postpetition Intercompany Balances, and (III) Waiving Certain U.S. Trustee Requirements;*
- **Wages Motion.** *Debtors' Motion for Interim and Final Orders (I) Authorizing the Debtors to (A) Pay Prepetition Employee Wages, Salaries, Other Compensation, and Reimbursable*

¹ Capitalized terms used but not defined herein have the meaning ascribed to such terms in the *Declaration of Mark A. Renzi in Support of Debtors' Chapter 11 Petitions and First-Day Motions* (the "Renzi Declaration") to which this is attached as Exhibit A.

Expenses, and (B) Continue Employee Benefits Programs, and (II) Granting Related Relief;

- **Insurance Motion.** *Debtors' Motion for Entry of Interim and Final Orders Pursuant to 11 U.S.C. §§ 105(a) and 363(c) Authorizing the Debtors to (I) Continue, Renew, or Supplement Insurance Policies, (II) Pay Insurance Premiums Thereon, (III) Continue, Renew, or Supplement the Surety Bond Program, and (IV) Granting Related Relief;*
- **Critical Vendors Motion.** *Debtors' Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to Pay or Honor Prepetition Obligations to Certain Claimants and (II) Granting Related Relief;*
- **Tax Motion.** *Debtors' Motion Seeking Entry of Interim and Final Orders (I) Authorizing Debtors to Pay Certain Prepetition Taxes and Fees and (II) Authorizing Financial Institutions to Honor and Process Related Checks and Transfers Pursuant to Bankruptcy Code §§ 105(a), 363(b), 507(a)(8), and 541(d);*
- **NOL Motion.** *Debtors' Motion for Entry of Interim and Final Orders (I) Approving Notification and Hearing Procedures for Certain Transfers of and Declarations of Worthlessness with Respect to Common Stock and Preferred Stock and (II) Granting Related Relief;*
- **Automatic Stay Motion.** *Debtors' Motion Seeking Entry of an Order (I) Restating and Enforcing the Worldwide Automatic Stay, Anti-Discrimination Provisions, and Ipso Facto Protections of the Bankruptcy Code, and (II) Granting Related Relief; and*
- **Utilities Motion.** *Debtors' Motion for Entry of Interim and Final Orders Pursuant to 11 U.S.C. §§ 105(a) and 366(I) Prohibiting Utility Companies from Altering or Discontinuing Service on Account of Prepetition Invoices, (II) Approving Deposit Account as Adequate Assurance of Payment, and (III) Establishing Procedures for Resolving Requests by Utility Companies for Additional Assurance of Payment.*

2. These First Day Motions seek authority to, among other things, honor employee-related wages and benefits obligations, pay claims of certain vendors and suppliers to ensure that the Debtors' business operations are not disrupted by the Chapter 11 Cases, and continue the Debtors' cash management system and other operations in the ordinary course of business with as minimal interruption as possible. The Debtors have tailored their requests for immediate relief to those circumstances where the failure to receive such relief would cause immediate and irreparable harm to the Debtors and their estates. An immediate and orderly transition into chapter 11 is

critical to the viability of the Debtors' operations and any delay in granting the relief described in the First Day Motions would hinder the Debtors' operations and cause irreparable harm. The failure to receive the requested relief during the first 21 days of these Chapter 11 Cases would severely disrupt the Debtors' operations at this important juncture.

3. I am familiar with the content and substance contained in each First Day Motion and believe that the relief sought in each motion (a) is necessary to enable the Debtors to operate in chapter 11 with minimal disruption or loss of productivity and value, (b) constitutes a critical element of the Debtors' successful reorganization, and (c) best serves the Debtors' estates. I have reviewed each of the First Day Motions and the facts set forth therein are true and correct to the best of my knowledge. I incorporate the facts stated in each of the First Day Motions herein in their entirety by reference. If asked to testify as to the facts supporting each of the First Day Motions, I would testify to the facts as set forth in such motions.

[Remainder of page intentionally left blank]

EXHIBIT B

Corporate Structure Chart

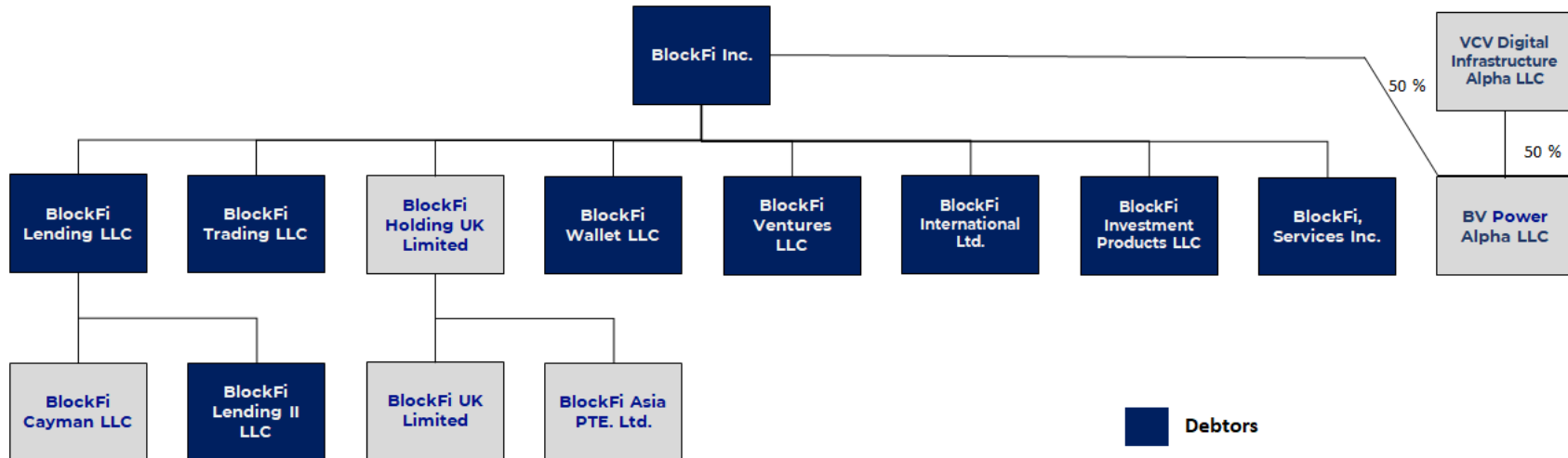
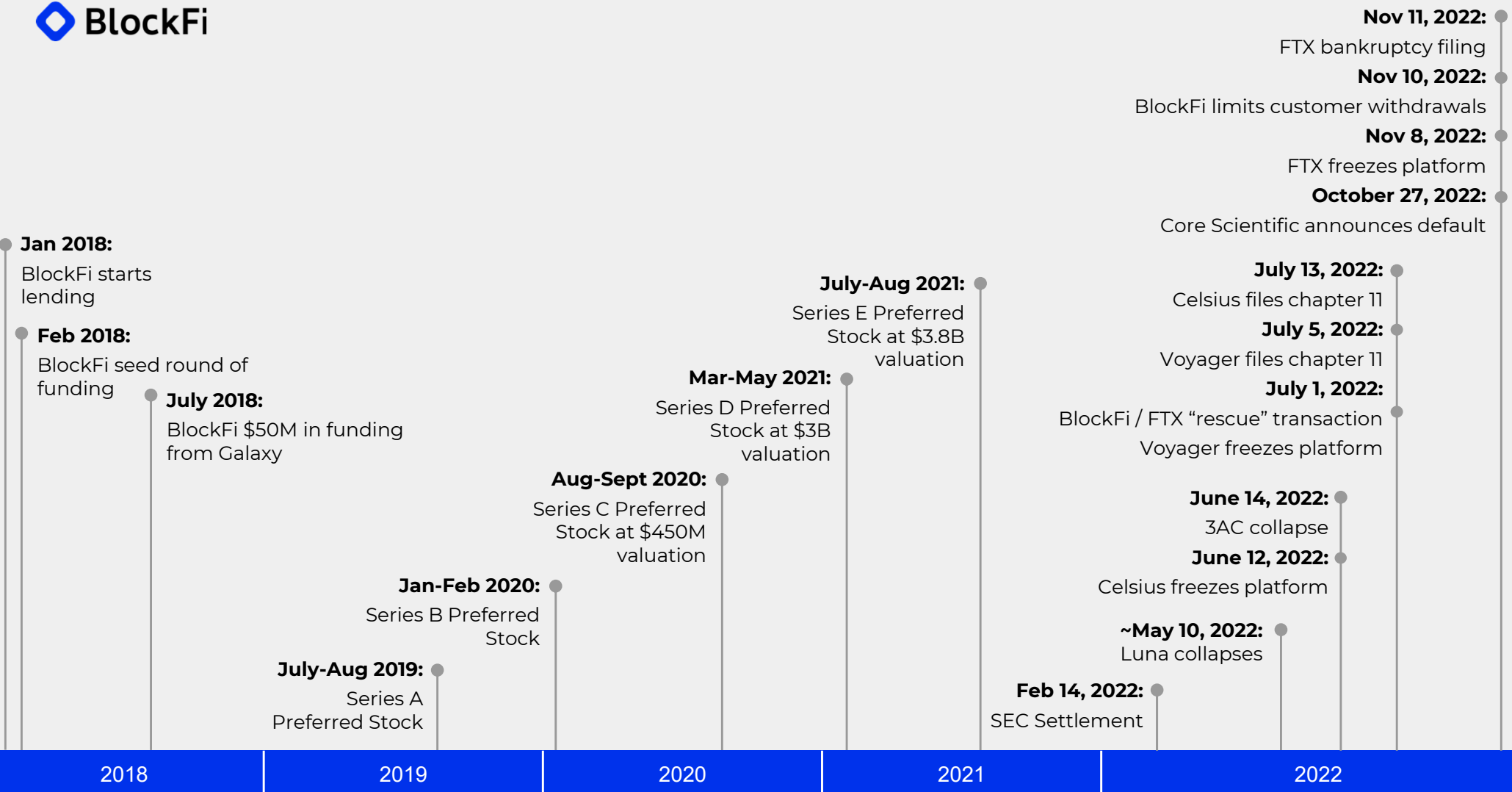


EXHIBIT C

Timeline of Key Events



UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY	
Caption in Compliance with D.N.J. LBR 9004-1(b) COLE SCHOTZ P.C.	
Michael D. Sirota, Esq. (NJ Bar No. 014321986) Warren A. Usatine, Esq. (NJ Bar No. 025881995) Court Plaza North, 25 Main Street Hackensack, New Jersey 07601 (201) 489-3000 (201) 489-1536 Facsimile msirota@coleschotz.com wusatine@coleschotz.com	
HAYNES AND BOONE, LLP	
Richard S. Kanowitz, Esq. (NJ Bar No. 047911992) Richard D. Anigian, Esq. (<i>pro hac vice</i> pending) Charles M. Jones II, Esq. (<i>pro hac vice</i> pending) 30 Rockefeller Plaza, 26th Floor New York, New York 10112 (212) 659-7300 richard.kanowitz@haynesboone.com rick.anigian@haynesboone.com charlie.jones@haynesboone.com	
<i>Proposed Attorneys for Debtors and Debtors in Possession</i>	
In re: BLOCKFI INC., <i>et al.</i> , Debtors. ¹	Case No. 22-19361 (MBK) (Joint Administration Requested)
BLOCKFI INC., BLOCKFI LENDING LLC AND BLOCKFI INTERNATIONAL LLC, Plaintiffs, -against- EMERGENT FIDELITY TECHNOLOGIES LTD. AND ED&F MAN CAPITAL MARKETS, INC., Defendants.	Chapter 11 Adv. Pro. No. 22-01382 (MBK)

**ORDER GRANTING DEBTORS' MOTION FOR ENTRY OF AN ORDER
PURSUANT TO SECTIONS 105(a), 542, AND 543 OF THE BANKRUPTCY CODE
(I) DIRECTING THE COLLATERAL BE TRANSFERRED TO A NEUTRAL**

¹ The Debtors in these chapter 11 cases (the "Debtors"), along with the last four digits of each Debtor's federal tax identification number, are: BlockFi Inc. (0015); BlockFi Trading LLC (2487); BlockFi Lending LLC (5017); BlockFi Wallet LLC (3231); BlockFi Ventures LLC (9937); BlockFi International Ltd. (N/A); BlockFi Investment Products LLC (2422); BlockFi Services, Inc. (5965) and BlockFi Lending II LLC (0154). The location of the Debtors' service address is 201 Montgomery Street, Suite 263, Jersey City, NJ 07302.

**BROKER OR ESCROW UNDER THE COURT'S SUPERVISION OR (II)
ENJOINING THE DEFENDANTS FROM TRANSFERRING OR USING THE
COLLATERAL PENDING FINAL RESOLUTION OF THE TURNOVER CLAIMS**

The relief set forth on the following pages, numbered three (3) and four (4), is **ORDERED**.

(Page 3)

Debtors: BLOCKFI, INC., *et al.*

Case No. 22-19361 (MBK)

Adv. Pro. No. 22-01382 (MBK)

Caption of Order: ORDER GRANTING DEBTORS' MOTION FOR ENTRY OF AN ORDER PURSUANT TO SECTIONS 105(a), 542, AND 543 OF THE BANKRUPTCY CODE (I) DIRECTING THE COLLATERAL BE TRANSFERRED TO A NEUTRAL BROKER OR ESCROW UNDER THE COURT'S SUPERVISION OR (II) ENJOINING THE DEFENDANTS FROM TRANSFERRING OR USING THE COLLATERAL PENDING FINAL RESOLUTION OF THE TURNOVER CLAIMS

Upon the *Debtors' Motion for Entry of an Order Pursuant to Sections 105(a), 542, and 543 of the Bankruptcy Code (I) Directing the Collateral be Transferred to a Neutral Broker or Escrow under the Court's Supervision or (II) Enjoining the Defendants from Transferring or Using the Collateral Pending Final Resolution of the Turnover Claims* (the "Motion");¹ and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. § 1334, and the *Order of Reference of Bankruptcy Cases and Proceedings*; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and it appearing that venue is proper before this Court pursuant to 28 U.S.C. § 1409; and due and proper notice of the Motion having been provided, and it appearing that no other or further notice need be provided; and the Court having reviewed the Motion; and the Court having held a hearing on the Motion; and all objections, if any, to the Motion have been withdrawn, resolved, or overruled; and the Court having determined that the legal and factual bases set forth in the Motion establish

¹ Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

(Page 4)

Debtors: BLOCKFI, INC., *et al.*

Case No. 22-19361 (MBK)

Adv. Pro. No. 22-01382 (MBK)

Caption of Order: ORDER GRANTING DEBTORS' MOTION FOR ENTRY OF AN ORDER PURSUANT TO SECTIONS 105(a), 542, AND 543 OF THE BANKRUPTCY CODE (I) DIRECTING THE COLLATERAL BE TRANSFERRED TO A NEUTRAL BROKER OR ESCROW UNDER THE COURT'S SUPERVISION OR (II) ENJOINING THE DEFENDANTS FROM TRANSFERRING OR USING THE COLLATERAL PENDING FINAL RESOLUTION OF THE TURNOVER CLAIMS

just cause for the relief granted herein; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor:

1. The Motion is GRANTED as set forth herein.
2. Emergent Fidelity Technologies LTD. and ED&F Man Capital Markets Inc. shall transfer the Collateral to [_____] within three (3) business days of the entry of this Order.
3. [_____] shall hold the Collateral pending the final resolution of the claims in the above-captioned adversary proceeding and shall not release or use any of the Collateral absent an Order from this Court directing such release or use.
4. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.