

**ADMINISTRATIVE PROCEEDING
BEFORE THE
SECURITIES COMMISSIONER OF SOUTH CAROLINA**

IN THE MATTER OF:)	
)	
BlockFi Lending LLC,)	CONSENT ORDER
)	Matter No. 20213960
)	
Respondent.)	
)	
)	
_____)	

I. PRELIMINARY STATEMENT

WHEREAS, pursuant to the authority granted to the Securities Commissioner of South Carolina (the “Securities Commissioner”) under the South Carolina Uniform Securities Act of 2005, S.C. Code Ann. § 35-1-101, *et seq.* (the “Act”), and delegated to the Securities Division of the Office of the Attorney General of the State of South Carolina (the “Division”) by the Securities Commissioner, the Division conducted an investigation into the securities-related activities of BlockFi Lending LLC (“BlockFi”); and

WHEREAS, BlockFi is a New Jersey-based financial services company that offered and sold interest-bearing digital asset accounts called BlockFi Interest Accounts (“BIAs”), through which investors lend digital assets to BlockFi in exchange for BlockFi’s promise to provide variable monthly interest payments; and

WHEREAS, state securities regulators, as members of the North American Securities Administrators Association (“NASAA”), formed a working group (“Multistate Working Group”) and conducted an investigation into whether BIAs involved the offer and sale of unregistered securities by BlockFi to retail investors; and

WHEREAS, BlockFi has cooperated with state securities regulators and the Multistate Working Group conducting the investigation by responding to inquiries, providing documentary evidence and other materials, and providing access to facts relating to the investigations; and

WHEREAS, BlockFi has advised the Multistate Working Group of its agreement to resolve the investigation pursuant to the terms specified in this Consent Order (“Order”) and pursuant to the multistate resolution recommended by the Multistate Working Group; and

WHEREAS, BlockFi will cease and desist offering or selling the BIAs or any security that is not registered, qualified, or exempt to new clients in the United States, and BlockFi will cease accepting further investments or funds in the BIAs by current U.S. clients, unless and until the BIAs or other securities are registered, qualified, or otherwise exempt; and

WHEREAS, BlockFi shall pay up to a total of fifty million dollars (\$50,000,000.00) in settlement payments divided equally among the 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands to each of the 53 jurisdictions that enter into a consent order pursuant to the terms of BlockFi’s agreement with the Multistate Working Group; and

WHEREAS, BlockFi elects to waive permanently any right to a hearing and appeal under S.C. Code Ann. § 35-1-609 with respect to the entry of this Order; and

WHEREAS, BlockFi admits the jurisdiction of the Securities Commissioner in this matter; and

WHEREAS, solely for the purpose of terminating the existence of the Multistate Working Group investigation and in settlement of the issues contained in this Order, BlockFi, without admitting or denying the findings of fact or conclusions of law contained in this Order, consents to the entry of this Order.

NOW THEREFORE, the Securities Commissioner, as administrator of the Act, hereby enters this Order:

II. JURISDICTION

1. The Securities Commissioner has jurisdiction over this matter pursuant to S.C. Code Ann. § 35-1-601(a).

III. FINDINGS OF FACT

2. BlockFi Inc., a Delaware corporation, incorporated on August 1, 2017, with offices

15. On March 4, 2019, BlockFi publicly announced the launch of the BIA, through which investors could lend digital assets to BlockFi and in exchange, receive interest, “paid monthly in cryptocurrency.” Interest began accruing the day after assets were transmitted to BlockFi and compounded monthly, with interest payments made to accounts associated with each BIA investor, in digital assets, on or about the first business day of each month.

16. Investors in BIAs lent digital assets to BlockFi in exchange for BlockFi’s promise to provide a variable monthly interest payment.

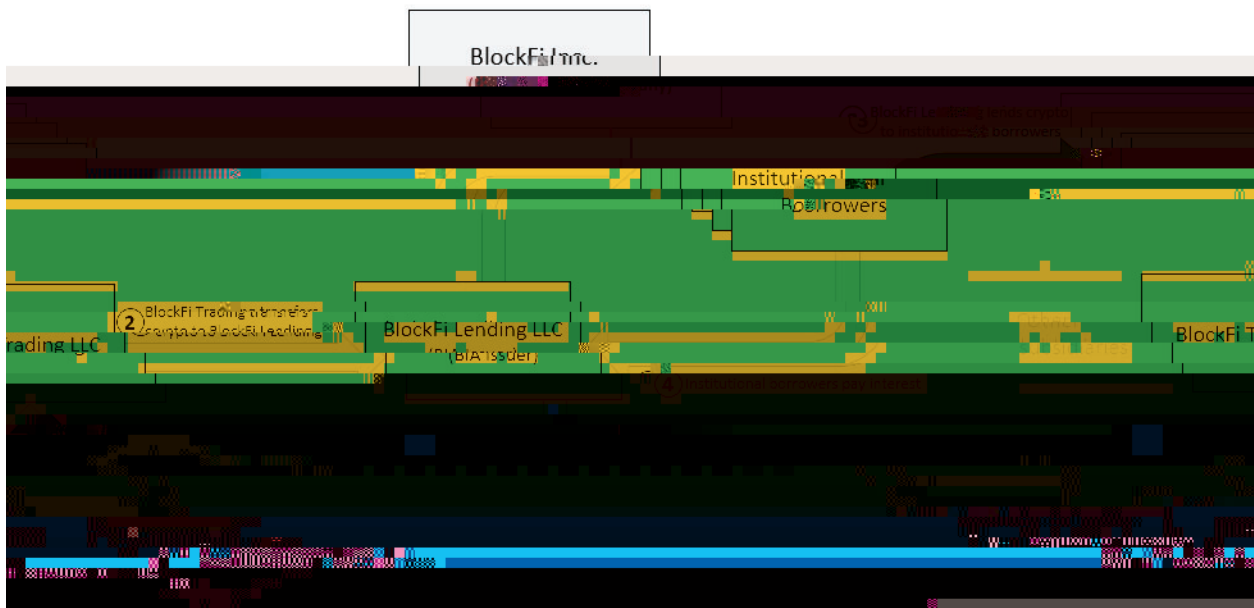
17. BlockFi represented it generated the interest it paid BIA investors by deploying investors’ digital assets in various ways, including loans made to institutional investors, lending U.S. dollars to retail investors, and investing in digital assets, equities, and futures.

18. Under BlockFi’s terms for the BIA, investors:

grant BlockFi the right, without further notice to [the investor], to hold the cryptocurrency held in [the] account in BlockFi’s name or in another name, and to pledge, repledge, hypothecate, rehypothecate, sell, lend, or otherwise transfer, invest or use any amount of such cryptocurrency, 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 cryptocurrency, and to use or invest such cryptocurrency at its own risk.

19. BlockFi offered and sold BIAs to obtain digital assets for the general use of its business, namely to use the assets in its lending and investment activities, which generated income both for BlockFi and to pay interest to BIA investors. BlockFi pooled the loaned assets, and exercised full discretion over how much to hold, lend, and invest. BlockFi had complete legal ownership and control over the digital assets loaned to it by BIA investors and advertised that it managed the risks involved.

20. To begin investing in a BIA, an investor could transfer digital assets to the digital wallet address assigned by BlockFi to the investor or purchase digital assets with fiat currency from BlockFi Trading LLC for the purpose of investing in a BIA. BlockFi Trading LLC accepted the digital asset or fiat from the investor, and then transferred the asset to BlockFi. BlockFi did not hold private keys for the investors' wallet addresses; rather, investors' digital assets were sent to BlockFi's wallet addresses at third-party custodians.



21. BIA investors were permitted to withdraw the equivalent to the digital assets they loaned to BlockFi and accrued interest at any time, with some limitations, and they could borrow money in U.S. dollars against the amount of digital assets deposited in BIAs.

22. BlockFi adjusted the interest rates payable on BIAs for particular digital assets periodically, and typically at the start of each month. BlockFi set the rates based, in part, on “the yield that [BlockFi] can generate from lending” to institutional borrowers, and thus, interest rates were correlated with BlockFi’s efforts to generate that yield. BlockFi periodically adjusted its

interest rates payable on the BIAs, in part, after analysis of current yield on its investment and lending activity.

23. BIA investors could demand that BlockFi repay the loaned digital assets at any time.

24. As of March 31, 2021, BlockFi and its affiliates held approximately \$14.7 billion in BIA investor assets. As of December 8, 2021, BlockFi and its affiliates held approximately \$10.4 billion in BIA investor assets, and had approximately 572,160 BIA investors, including 391,105 investors in the United States.

25. As of December 31, 2019, BlockFi and its affiliates held approximately \$618,827 in BIA investor assets from South Carolina residents. As of December 31, 2020, BlockFi and its affiliates held approximately \$21,199,180 in BIA investor assets from South Carolina residents. As of December 31, 2021, BlockFi and its affiliates held approximately \$64,022,858 in BIA investor assets from South Carolina residents.

ii. Marketing BlockFi's BIA

26. BlockFi offered and sold the BIA securities to investors, including retail investors, through advertising and general solicitations on its website, www.blockfi.com. BlockFi also promoted distribution of the BIA offering through its social media accounts, including YouTube, Twitter, and Facebook. In addition, through its “Partner” program, an affiliate marketing program in which participants could “earn passive income by introducing your audience to financial tools for crypto investors,” BlockFi extended its distribution of the BIA securities to retail investors through certain offers and promotions.

27. BlockFi regularly touted the profits investors may earn by investing in a BIA. When announcing the BIA, BlockFi promoted the interest earned, promising “an industry-leading

6.2% [annual percentage yield],” compounded monthly. BlockFi described it as “an easy way for crypto investors to earn bitcoin as they HODL [Hold on for Dear Life].”

28. Within the first few weeks of launching the BIA, BlockFi again touted investors’ potential for profit. On March 20, 2019, BlockFi announced that BIAs experienced significant growth, including from large firms that participated in BIAs “as a way to bolster their returns.” BlockFi asserted that its “mission is to provide the average crypto investor with the tools to build their wealth,” and that it “look[ed] forward to giving even more investors a chance to earn a yield on their crypto.”

29. On April 1, 2019, BlockFi began to “tier” the interest rates that investors received, initially announcing that “BIA balances of up to and including 25 [Bitcoin] or 500 [Ether] (equivalent to roughly \$100,000 and \$70,000 respectively) will earn the 6.2% APY interest rate. All balances over that limit will earn a tiered rate of 2% interest.” Even when changing the interest rates customers receive, BlockFi touted the yields to investors. On August 27, 2021, BlockFi stated that the adjustments to interest rates are done “with the goal of maintaining great rates for the maximum number of clients.”

30. On January 1, 2021, BlockFi advertised that it had “distributed more than \$50 million in monthly interest payments to [its] clients.”

31. As of November 1, 2021, the interest rates BlockFi paid investors ranged from 0.1% to 9.5%, depending on the type of digital asset and the size of the investment. For example,

32. BlockFi's offer of BIAs included an untrue statement of a material fact or omitted to state a material fact necessary in order to make the statement made, in light of the circumstances under which it was made, not misleading on its website from March 4, 2019 to August 31, 2021, concerning its collateral practices and, therefore, the risks associated with its lending activity.

33. Beginning at the time of the BIA launch on March 4, 2019, and continuing to August 31, 2021, BlockFi made a statement in multiple website posts that its institutional loans were "typically" over-collateralized, when in fact, most institutional loans were not.

34. When BlockFi began offering the BIA investment, it intended to require over-collateralization on a majority of its loans to institutional investors, but it quickly became apparent that large institutional investors were frequently not willing to post large amounts of collateral to secure their loans.

35. Approximately 24% of institutional digital asset loans made in 2019 were over-collateralized; in 2020 approximately 16% were over-collateralized; and in 2021 (through June 30, 2021) approximately 17% were over-collateralized.

36. As a result, BlockFi's statement materially overstated the degree to which it secured protection from defaults by institutional borrowers through collateral. Through operational oversight, BlockFi's personnel failed to take steps to update the website statement to accurately reflect the fact that most institutional loans were not over-collateralized.

37. Although BlockFi made other disclosures on its website regarding its risk management practices, because of BlockFi's misrepresentations and omissions about the level of risk in its loan portfolio, BIA investors did not have complete and accurate information with which to evaluate the risk that, in the event of defaults by its institutional borrowers, BlockFi would be

unable to comply with its obligation to pay BIA investors the stated interest rates or return the loaned digital assets and accrued interest to investors upon demand.

iv. Failure to Comply with Registration Requirements

38. During the Relevant Period, BlockFi's offer and sale of BIAs was not done subject to an exception or exemption from registration.

IV. CONCLUSIONS OF LAW

39. The BIAs are securities as defined in S.C. Code Ann. § 35-1-102(29).

40. During the Relevant Period, BlockFi's offer and sale of securities in South Carolina that were not registered or permitted for sale in South Carolina violated S.C. Code Ann. § 35-1-301.

41. During the Relevant Period, BlockFi's offer included an untrue statement of a material fact or omitted to state a material fact necessary in order to make the statement made, in light of the circumstances under which it was made, not misleading on its website concerning its collateral practices and, therefore, the risks associated with its lending activity, in violation of S.C. Code Ann. § 35-1-501.

42. The foregoing violations of S.C. Code Ann. § 35-1-301 and S.C. Code Ann. § 35-1-501 constitute the basis for the assessment of a civil penalty against true stath.pursunt Po m

a new investment product, BlockFi Yield, within 30 days of BlockFi Inc. filing a federal registration statement under the federal Securities Act of 1933.

45. BlockFi and BlockFi's parent, BlockFi Inc., further undertake and agree to cease and desist offering or selling BIAs or any security that is not registered, qualified, or exempt to new investors in the United States and cease and desist accepting further investments or funds in the BIAs by current U.S. investors unless and until the BIAs or other securities have been registered by the Securities Commissioner or are otherwise exempt.

46. BlockFi's parent, BlockFi Inc., undertakes and agrees to cease and desist making untrue statements of material fact or omitting to state material facts necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading.

47. BlockFi undertakes and agrees to pay a civil penalty in the amount of \$943,396.22 to the Division.

VI. ORDER

On the basis of the Findings of Facts, Conclusions of Law, and BlockFi's consent to the entry of this Order, it is hereby **ORDERED** that:

1. This Order concludes the investigation by the Division and resolves any other action the Division could commence against BlockFi and its affiliates concerning the Findings of Fact and Conclusions of Law, including as it relates to the offer and sale of BIAs without registration, qualification, or otherwise complying with an exemption and the above-referenced statements regarding BlockFi's collateral practices made thereto during the Relevant Period.
- 2.

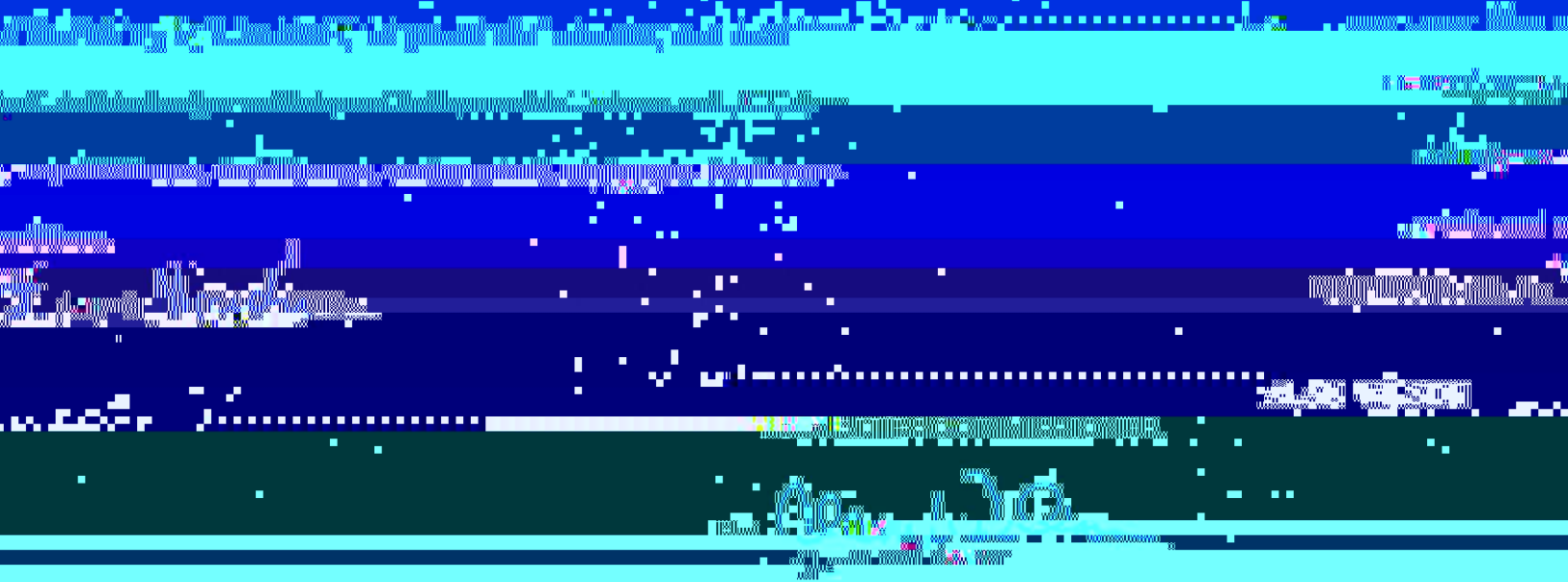
than the obligations and provisions set forth herein, this Order does not limit or create liability for BlockFi nor limit or create defenses for BlockFi to any claims.

3. This Order and the order of any other State in any proceeding related to BlockFi's agreement to resolve the above-referenced multistate investigation (collectively, the "Orders") shall not be used as sole grounds to deny registration or qualification of securities issued by BlockFi or its parent, BlockFi Inc.
4. This Order is not intended to subject any Covered Person to any disqualifications under the laws of the United States, any state, the District of Columbia, Puerto Rico, or the U.S. Virgin Islands, or under the rules or regulations of any securities or commodities regulator or self-regulatory organization, including, without limitation, any disqualification from relying upon the state or federal registration exemptions or safe harbor provisions. "Covered Persons" means BlockFi, its parent, or any of its affiliates and their current or former officers, directors, employees, or other persons that could otherwise be disqualified as a result of the Orders.
5. This Order does not preclude BlockFi from paying interest or returns to existing clients, refunding principal to investors consistent with the terms of the BIAs, or otherwise lawfully dealing with existing clientele.
6. BlockFi is hereby **ORDERED** to cease and desist from offering or selling the BIAs or any security that is not registered, qualified, or exempt to new investors in South Carolina and cease and desist accepting further investments or funds in the BIAs by current South Carolina investors, unless and until the BIAs or other securities are registered or otherwise exempt in South Carolina.

7. BlockFi is hereby **ORDERED** to pay a civil penalty in the amount of \$943,396.22 to the Division.
8. Payment shall be made in the following installments:
 - a. \$188,679.24 within 14 days of the entry of this Order;
 - b. \$188,679.24 by or on August 15, 2022;
 - c. \$188,679.24 by or on February 14, 2023;
 - d. \$188,679.24 by or on August 14, 2023; and
 - e. \$188,679.26 by or on February 14, 2024.
9. If BlockFi fails to make any payment by the date agreed and/or in the amount agreed according to the schedule set forth above, all outstanding payments under this Order, including post-order interest, minus any payments made, shall become due and payable immediately at the discretion of the staff of the Division without further application to the Division.
10. Payment must be made in one of the following ways:
 - a. BlockFi may transmit payment electronically to the Securities Division of the South Carolina Attorney General's Office, which will provide detailed ACH transfer instructions upon request; or
 - b. BlockFi may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities Division of the South Carolina Attorney General's Office and hand delivered or mailed to:

South Carolina Attorney General's Office
Securities Division
Attn: Elizabeth Beckwith
1000 Assembly Street, 5th Floor
Columbia, SC 29201

Commissioner of the Department of Transportation
1000 North Main Street, Room 1000
Columbia, South Carolina 29201



Commissioner
State of South Carolina

BlockFi states that no promise of any kind or nature whatsoever was made to it to induce it to enter into this Order and that it has entered into this Order voluntarily.

Jonathan Mayers represents that s/he is General Counsel of BlockFi and that, as such, has been authorized by BlockFi to enter into this Order for and on behalf of BlockFi.

Dated this 3rd day of March, 2022.

DocuSigned by:
By: Jonathan Mayers
ADEC770BC65B4DB...
Title: General Counsel

BlockFi Inc. ("BlockFi")

BlockFi Inc. ("BlockFi")

BlockFi Inc. ("BlockFi")

BlockFi Inc. ("BlockFi")

deduction or tax credit with

BlockFi Inc. agrees that

BlockFi Inc.

BlockFi Inc. ("BlockFi")

represents that s/he is General Counsel of BLOCKFI Inc. and that, as such, has been authorized by BlockFi Inc. to enter into this Order for and on behalf of BlockFi Inc.

Dated this 3rd day of March, 2022.

BlockFi Inc.

DocuSigned by: Jonathan Meyers ADFC7705C65B4DB General Counsel

consents to the terms of the above Consent Order.

The Securities Division South Carolina State

Division:

Jonathan B. Williams

Date: 3/5/2022

Jonathan B. Williams Assistant Deputy Attorney General