



Via Electronic Mail and Overnight Mail

August 4, 2023

Daniel Gouldman, Chief Executive Officer and Co-Founder
Ian Kane, Chief Executive Officer and Co-Founder
Unbanked, Inc.
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RE: Potential Violations of Section 18(a)(4) of the Federal Deposit Insurance Act

Messrs. Gouldman and Kane,

The Federal Deposit Insurance Corporation (“FDIC”) has reason to believe that Unbanked, Inc. (“Unbanked”), as well as certain of its officers, have made false and misleading statements, directly or by implication, concerning Unbanked’s insured status, in violation of section 18(a)(4) of the Federal Deposit Insurance Act (“FDI Act”), 12 U.S.C. § 1828(a)(4) (“Section 18(a)(4)”), and its implementing regulation, 12 C.F.R. Part 328, Subpart B (“Part 328”). We hereby demand that you cease and desist and take immediate corrective action to address these false and misleading statements, as more fully set forth below.

Section 18(a)(4) and Part 328 prohibit any person from representing that an uninsured financial product is insured or from knowingly misrepresenting the extent and manner in which a deposit or obligation is insured under the FDI Act, whether by making affirmative statements or by omitting material information. Under Part 328, no person may represent or imply that any uninsured financial product is insured or guaranteed by the FDIC as part of an advertisement, solicitation, or other publication or dissemination. 12 C.F.R. § 328.102(a)(2). This prohibition applies to an advertisement for any uninsured financial product that features or includes FDIC-associated terms or images without a clear, conspicuous, and prominent disclaimer that the products being offered are not FDIC insured or guaranteed. 12 C.F.R. § 328.102(a)(3)(i). Additionally, statements regarding deposit insurance are deemed to violate Part 328 if they omit material information. 12 C.F.R. § 328.102(b). For example, it is a material omission for a non-insured entity that advertises deposit insurance to fail to identify the insured depository institution (IDI) with which the representing party has a direct or indirect business

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relationship for the placement of deposits and into which the consumer's deposits may be placed. 12 C.F.R. § 328.102(b)(5). The FDIC has the authority to enforce these provisions against any person or entity. Enforcement tools available to the FDIC include the authority to issue cease-and-desist orders and to assess civil money penalties for violations of Section 18(a)(4) and Part 328. See 12 C.F.R. § 328.104-107.

Certain statements by Unbanked, which appeared on Unbanked's website and other media (such as social media), have come to the attention of the FDIC as containing apparent misrepresentations about FDIC deposit insurance. These statements include, but are not limited to, the following:

- Unbanked has published several tweets on the Twitter account "@UnbankedHQ," which state that Unbanked offers "FDIC-insured #crypto bank accounts" and FDIC-insured "crypto accounts." See, e.g., <https://twitter.com/UnbankedHQ/status/1529568740043636736> ("On top of FDIC-insured #crypto bank accounts, we're testing our #BlockCard in the UK ahead of launching across #Europe & #LATAM!"); <https://twitter.com/UnbankedHQ/status/1413500980797353984> ("Our crypto accounts are a little bit different, they're FDIC-insured . . .").
- Unbanked has advertised the availability of FDIC insurance on its website above marketing regarding checking accounts and the ability to "deposit, withdraw, and seamlessly trade between a number of crypto assets" without a disclaimer that the crypto assets are not FDIC insured or guaranteed. See <https://unbanked.com/business-solutions/bank-accounts/> ("Unbanked's accounts are Federal Deposit Insurance Corporation (FDIC)-insured and protect your customers against loss up to \$250,000[.] . . . Across the street or across the world, you can deposit, withdraw, and seamlessly trade between a number of crypto assets.").
- On the company's Instagram account, Unbanked stated, "we've always been committed to building a company that is fully compliant and regulated so we can offer our customers a suite of innovative financial products they can feel safe and secure using. In that journey, we've made sure our accounts are FDIC insured[.]" <https://www.instagram.com/p/Cd9DZC7KqJr/>.
- In a promoted article provided by Unbanked, Mr. Kane stated, "We provide FDIC-insured bank accounts for instantly converting in or out of crypto[.]" See <https://bitcoinmagazine.com/business/with-bitcoin-unbanked-brings-secure-finances-to-the-world>.

These statements appear to falsely imply that uninsured financial products are insured by the FDIC. All of the statements highlighted above appear to represent or imply that: (1) FDIC insurance is available for cryptocurrency, and (2) FDIC insurance would protect against cryptocurrency-related losses. In fact, FDIC insurance does not cover cryptocurrency; the FDIC only insures deposits held in

IDIs; and FDIC insurance only protects against losses caused by the failure of IDIs. Accordingly, Unbanked's statements appear to violate Section 18(a)(4) and Part 328.

Furthermore, some of Unbanked's representations regarding the availability of FDIC insurance appear to fail to identify the IDI(s) into which consumers' deposit may be placed. The name of the IDI is necessary for a consumer to understand the extent or manner of deposit insurance provided, and the failure to identify the IDI(s) are deemed to be a material omission in violation of Part 328.

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

1. You shall immediately remove any and all statements, representations, or references that suggest in any way, explicitly or implicitly, that: (a) any funds held in cryptocurrency or other uninsured financial products such as stocks, bonds, money market mutual funds, or other types of securities or commodities are or could be protected by FDIC insurance; (b) FDIC insurance may provide coverage for any event other than the failure of an IDI; or (c) FDIC insurance provides protection or coverage in any manner or extent other than those set forth in the FDI Act from the Unbanked website (including any pop-ups, hyperlinks, or chatbots) and any other websites, Twitter and any other social media platforms (including both corporate accounts and personal accounts of senior management of Unbanked), the mobile app, online outlet, and any other forms (electronic or hard copy) of marketing, advertising, or other consumer-facing publications.
2. You shall cease and desist from making any statements, representations, or references that suggest in any way, explicitly or implicitly, that: (a) any funds held in cryptocurrency or other uninsured financial products such as stocks, bonds, money market mutual funds, or other types of securities or commodities are or can be protected by FDIC insurance; (b) FDIC insurance may provide coverage for any event other than the failure of an IDI; or (c) FDIC insurance provides protection or coverage in any manner or extent other than those set forth in the FDI Act.
3. To the extent that Unbanked's representations relate to pass-through insurance arising from the placement of consumer deposits into accounts at IDIs, you shall amend such statements to: (1) clearly and accurately identify the nature of such insurance, and (2) identify the IDI(s) with which Unbanked has a direct or indirect relationship for the placement of deposits and into which consumers' funds may be deposited.
4. Within fifteen (15) days of receipt of this letter, you shall provide written confirmation to the FDIC that Unbanked has fully complied with the requests set forth above. Such confirmation shall detail all efforts undertaken to comply with this letter, including all efforts to identify and locate all misrepresentations and the specific actions you took.

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

Failure to timely respond to this letter may result in the FDIC taking appropriate action as authorized by the Act and any other applicable law or regulation. Be advised that this letter is intended to address only potential violations of Section 18(a)(4) and Part 328, described above. Your response to this matter may or may not affect our conclusions as to the potential violations identified above, and does not preclude the FDIC from taking any further action, as appropriate, with respect to the foregoing or any other violations of laws or regulations. Moreover, nothing in this matter bars or estops any other federal or state agency from investigating, or pursuing actions for, violations of other laws and regulations.

Should you have any questions about the contents of this letter, please contact Bowen Ranney at [REDACTED] [fdic.gov](https://www.fdic.gov).

Sincerely,

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