

1 CLOTHILDE V. HEWLETT  
Commissioner  
2 MARY ANN SMITH  
Deputy Commissioner  
3 MIRANDA LEKANDER  
Assistant Chief Counsel  
4 DANIELLE A. STOUMBOS (State Bar No. 264784)  
Senior Counsel  
5 Department of Financial Protection and Innovation  
320 West 4th Street, Suite 750  
6 Los Angeles, California 90013  
Telephone: (213) 503-2046  
7 Facsimile: (213) 576-7181

8 Attorneys for Complainant

9 BEFORE THE DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION  
10 OF THE STATE OF CALIFORNIA

11  
12 In the Matter of: )  
13 THE COMMISSIONER OF FINANCIAL )  
PROTECTION AND INNOVATION, )  
14 )  
15 Complainant, ) CONSENT ORDER  
16 v. )  
17 BLOCKFI LENDING LLC )  
18 Respondent. )  
19 )

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

24 State securities regulators, as members of the North American Securities Administrators  
25 Association (“NASAA”), formed a working group (the “Multistate Working Group”) and conducted  
26 an investigation into whether BIAs involved the offer and sale of unregistered securities by BlockFi  
27 to retail investors; and  
28

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

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

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

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

15 BlockFi elects to waive permanently any right to a hearing and appeal under the California  
16 Corporate Securities Law of 1968 (“CSL”) (Corp. Code, § 25000 et seq.), the California  
17 Administrative Procedure Act, the California Code of Civil Procedure, or any other provision of law  
18 with respect to the entry of this Order; and

19 BlockFi admits the jurisdiction of the California Department of Financial Protection and  
20 Innovation (“DFPI”) in this matter; and

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

24 NOW, THEREFORE, the Commissioner of Financial Protection and Innovation  
25 (“Commissioner”), as administrator of the CSL hereby enters this Order:

26 **I.**  
27 **Findings of Fact**

- 28 1. The DFPI has jurisdiction over this matter pursuant to the CSL.

1           2.       BlockFi Inc., a Delaware corporation, incorporated on August 1, 2017, with offices at  
2 201 Montgomery Street, Suite 263, Jersey City, New Jersey, is a financial services company that,  
3 through its subsidiaries, generates revenue through cryptocurrency and other digital asset trading,  
4 lending, and borrowing, as well as investments and other types of transactions.

5           3.       BlockFi Trading LLC, a Delaware limited liability company formed on May 28,  
6 2019, with offices at 201 Montgomery Street, Suite 263, Jersey City, New Jersey, is a wholly owned  
7 subsidiary of BlockFi Inc. that accepts money and digital assets from investors and transfers the  
8 funds to BlockFi for investment in BIAs.

9           4.       BlockFi, a Delaware limited liability company formed on January 11, 2018, with  
10 offices at 201 Montgomery Street, Suite 263, Jersey City, New Jersey, is a wholly owned subsidiary  
11 of BlockFi Inc. and an affiliate of BlockFi Trading LLC and is the issuer of the BIAs.

12           5.       Starting on January 7, 2021, members of the Multistate Working Group contacted  
13 BlockFi to notify it that it may have offered and sold securities that may not comply with state  
14 securities laws.

15           6.       On July 19, 2021, New Jersey filed a summary cease and desist order alleging  
16 BlockFi and its parent and affiliate, BlockFi Inc. and BlockFi Trading LLC, were offering and  
17 selling unregistered securities in the form of BIAs.

18           7.       On July 22, 2021, Alabama filed an order to show cause alleging BlockFi and its  
19 parent and affiliate, BlockFi Inc. and BlockFi Trading LLC, were offering and selling unregistered  
20 securities in the form of BIAs.

21           8.       On July 22, 2021, Texas filed a notice of hearing alleging BlockFi and its parent and  
22 affiliate, BlockFi Inc. and BlockFi Trading LLC, were offering and selling unregistered securities in  
23 the form of BIAs.

24           9.       On July 22, 2021, Vermont filed a show cause order alleging BlockFi and its parent  
25 and affiliate, BlockFi Inc. and BlockFi Trading LLC, were offering and selling unregistered  
26 securities in the form of BIAs.

27           10.      On July 29, 2021, Kentucky filed an emergency cease and desist order alleging  
28 BlockFi and its parent and affiliate, BlockFi Inc. and BlockFi Trading LLC, were offering and

1 selling unregistered securities in the form of BIAs.

2 11. On September 23, 2021, Washington filed a statement of charges alleging BlockFi  
3 and its parent and affiliate, BlockFi Inc. and BlockFi Trading LLC, were offering and selling  
4 unregistered securities in the form of BIAs.

5 12. On February 14, 2022, BlockFi agreed to cease and desist offering and selling BIAs  
6 nationwide to new investors in the United States and cease and desist accepting further investments  
7 or funds in the BIAs by current U.S. investors, including in California.

8 **The offer and sale of securities nationwide**

9 13. From at least March 4, 2019 through February 14, 2022 (the “Relevant Period”),  
10 BlockFi has offered and sold securities in the form of interest-bearing digital asset accounts called  
11 BIAs and marketed, offered, and sold those securities to California residents.

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

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

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

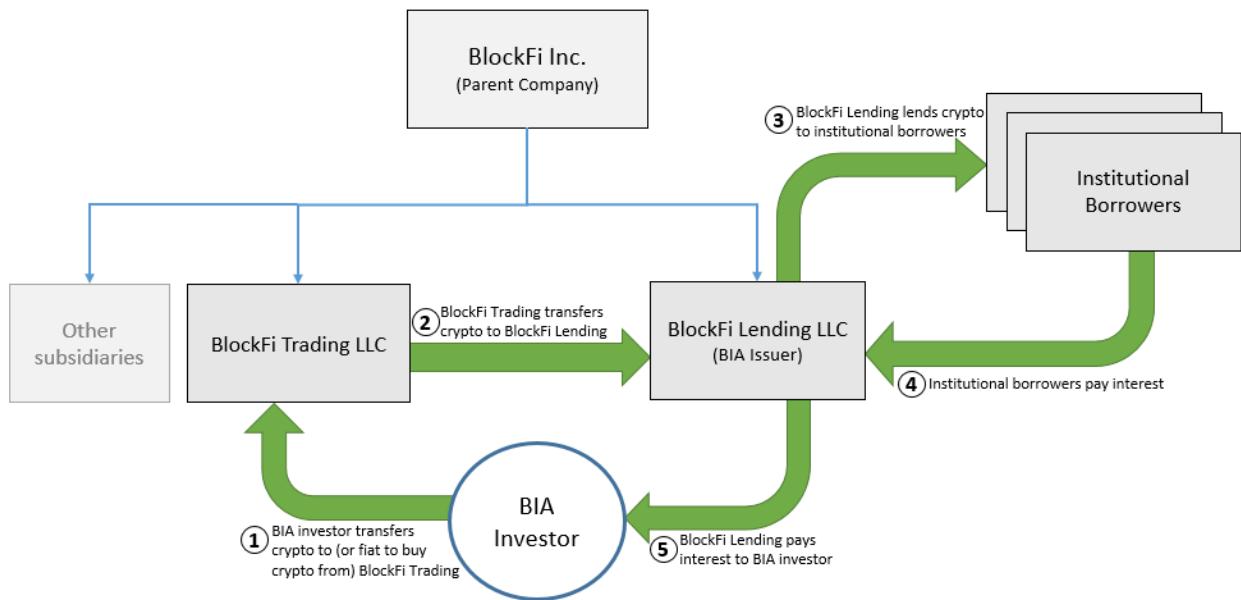
22 17. Under BlockFi’s terms for the BIA, investors:

23 grant BlockFi the right, without further notice to [the investor], to hold the  
24 cryptocurrency held in [the] account in BlockFi’s name or in another name, and to  
25 pledge, repledge, hypothecate, rehypothecate, sell, lend, or otherwise transfer, invest  
26 or use any amount of such cryptocurrency, separately or together with other property,  
27 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.

28 18. BlockFi offered and sold BIAs to obtain digital assets for the general use of its

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

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



23 20. BIA investors were permitted to withdraw the equivalent to the digital assets they  
 24 loaned to BlockFi and accrued interest at any time, with some limitations.

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

1 adjusted its interest rates payable on the BIAs in part after analysis of current yield on its investment  
2 and lending activity. BIA investors could demand that BlockFi repay the loaned digital assets at any  
3 time.

4 **Marketing BlockFi's BIA**

5 22. BlockFi offered and sold the BIA securities to investors, including retail investors,  
6 through advertising and general solicitations on its website, [www.blockfi.com](http://www.blockfi.com). BlockFi also  
7 promoted distribution of the BIA offering through its social media accounts, including YouTube,  
8 Twitter, and Facebook. In addition, through its “Partner” program, an affiliate marketing program in  
9 which participants could “earn passive income by introducing your audience to financial tools for  
10 crypto investors,” BlockFi extended its distribution of the BIA securities to retail investors through  
11 certain offers and promotions.

12 23. BlockFi regularly touted the profits investors may earn by investing in a BIA. When  
13 announcing the BIA, BlockFi promoted the interest earned, promising “an industry-leading 6.2%  
14 [annual percentage yield],” compounded monthly. BlockFi described it as “an easy way for crypto  
15 investors to earn bitcoin as they HODL.”

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

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

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

3           27.     As of November 1, 2021, the interest rates BlockFi paid investors ranged from 0.1%  
4 to 9.5%, depending on the type of digital asset and the size of the investment. For example, investors  
5 could receive 9.5% in interest for up to 40,000 Tether (“USDT”) and 8.5% for anything over 40,000  
6 USDT, as well as 4.5% interest for up to 0.1 Bitcoin (“BTC”), 1% for 0.1 to 0.35 BTC, and 0.1% for  
7 anything over 0.35 BTC.

8                           **Misrepresentation of Collateralization Practices for Institutional Loans**

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

13           29.     Beginning at the time of the BIA launch on March 4, 2019 and continuing to August  
14 31, 2021, BlockFi made a statement in multiple website posts that its institutional loans were  
15 “typically” over-collateralized, when in fact, most institutional loans were not.

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

20           31.     Approximately 24% of institutional digital asset loans made in 2019 were over-  
21 collateralized; in 2020 approximately 16% were over-collateralized; and in 2021 (through June 30,  
22 2021) approximately 17% were over-collateralized.

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

27           33.     Although BlockFi made other disclosures on its website regarding its risk  
28 management practices, because of BlockFi’s misrepresentations and omissions about the level of

1 risk in its loan portfolio, BIA investors did not have complete and accurate information with which  
2 to evaluate the risk that, in the event of defaults by its institutional borrowers, BlockFi would be  
3 unable to comply with its obligation to pay BIA investors the stated interest rates or return the  
4 loaned digital assets and accrued interest to investors upon demand.

5 **Failure to Comply with Qualification Requirements**

6 34. During the Relevant Period, BlockFi’s offer and sale of BIAs was not done subject to  
7 an exception or exemption from qualification.

8 35. During the Relevant Period, BlockFi offered and sold securities in California that  
9 were not registered, qualified, or permitted for sale in California as required by California  
10 Corporations Code section 25110.

11 **II.**  
12 **Conclusions of Law**

13 36. The BIAs are securities as defined in California Corporations Code section 25019.

14 37. During the Relevant Period, BlockFi’s offer and sale of securities in California that  
15 were not registered, qualified, or permitted for sale in California violated California Corporations  
16 Code section 25110.

17 38. During the Relevant Period, BlockFi’s offer included an untrue statement of material  
18 fact or omitted to state a material fact necessary to make the statement made, in light of the  
19 circumstances under which the statement was made, not misleading, on its website concerning its  
20 collateral practices and, therefore, the risks associated with its lending activity.

21 39. The foregoing violations of California Corporations Code section 25110 constitute  
22 the basis for the assessment of an administrative penalty against BlockFi pursuant to California  
23 Corporations Code section 25252.

24 **III.**  
25 **Undertaking**

26 40. BlockFi’s parent, BlockFi Inc., undertakes and agrees to file with the Commissioner  
27 for qualification to offer and sell a new investment product, BlockFi Yield, which BlockFi Inc.  
28 intends to register under the federal Securities Act of 1933, as required by California Corporations



1 Code section 25110, within the timeframe in California Corporations Code section 25111, California  
2 Code of Regulations, title 10, section 260.111.1, or as otherwise ordered by the Commissioner.

3 41. BlockFi and BlockFi’s parent, BlockFi Inc., further undertake and agree to desist and  
4 refrain from offering or selling BIAs or any security that is not registered, qualified, or exempt to  
5 new investors in the United States and desist and refrain from accepting further investments or funds  
6 in the BIAs by current U.S. investors unless and until the offer and sale of the BIAs or other  
7 securities have been qualified by the Commissioner or are otherwise exempt or not subject to  
8 qualification.

9 42. BlockFi’s parent, BlockFi Inc., undertakes and agrees to desist and refrain from  
10 making untrue statements of material facts or omitting to state material facts necessary to make the  
11 statements made, in light of the circumstances under which the statements were made, not  
12 misleading.

13 43. BlockFi undertakes and agrees to pay the Commissioner an administrative penalty in  
14 the amount of \$943,396.22.

15 **IV.**  
16 **Order**

17 On the basis of the Findings of Facts, Conclusions of Law, and BlockFi’s consent to the entry  
18 of this Order,

19 IT IS HEREBY ORDERED:

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

25 45. This Order is entered into solely for the purpose of resolving the referenced multistate  
26 investigation and is not intended to be used for any other purpose. Other than the obligations and  
27 provisions set forth herein, this Order does not limit or create liability for BlockFi nor limit or create  
28 defenses for BlockFi to any claims.

1           46.     This Order and the order of any other State in any proceeding related to BlockFi’s  
2 agreement to resolve the above-referenced multistate investigation (collectively, the “Orders”) shall  
3 not be used as sole grounds to deny registration or qualification of securities issued by BlockFi or its  
4 parent BlockFi Inc.

5           47.     This Order is not intended to subject any Covered Person to any disqualifications  
6 under the laws of the United States, any state, the District of Columbia, Puerto Rico, or the U.S.  
7 Virgin Islands, or under the rules or regulations of any securities or commodities regulator or self-  
8 regulatory organization, including, without limitation, any disqualification from relying upon the  
9 state or federal registration exemptions or safe harbor provisions. “Covered Persons” means BlockFi,  
10 its parent, or any of its affiliates and their current or former officers, directors, employees, or other  
11 persons that could otherwise be disqualified as a result of the Orders.

12           48.     This Order does not preclude BlockFi from paying interest or returns to existing  
13 clients, refunding principal to investors consistent with the terms of the BIAs, or otherwise lawfully  
14 dealing with existing clientele.

15           49.     Under California Corporations Code section 25532, BlockFi is hereby ORDERED to  
16 desist and refrain from offering or selling the BIAs or any security that is not registered, qualified, or  
17 exempt to new investors in California and desist and refrain from accepting further investments or  
18 funds in the BIAs by current California investors, unless and until the offer and sale of the BIAs or  
19 other securities are qualified or otherwise exempt or not subject to qualification in California.

20           50.     BlockFi is hereby ORDERED to pay an administrative penalty in the amount of  
21 \$943,396.22 to the Commissioner.

22           51.     Payment shall be made in the following installments:

- 23                   a.     \$188,679.24 within 14 days of the entry of this Order;
- 24                   b.     \$188,679.24 no later than August 15, 2022;
- 25                   c.     \$188,679.24 no later than February 14, 2023;
- 26                   d.     \$188,679.24 no later than August 14, 2023;
- 27                   e.     \$188,679.26 no later than February 14, 2024;

28           52.     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-

1 order interest, minus any payments made, shall become due and payable immediately at the  
2 discretion of the staff of the DFPI without further application to the DFPI.

3 53. Payment must be made in one of the following ways:

- 4 a. BlockFi may transmit payment electronically to the California Department of  
5 Financial Protection and Innovation, which will provide detailed ACH transfer  
6 instructions upon request; or
- 7 b. BlockFi may pay by bank cashier’s check made payable to the California  
8 Department of Financial Protection and Innovation and hand delivered or  
9 mailed to:

10 The Department of Financial Protection and Innovation  
 11 Attn: Accounting – Litigation  
 12 2101 Arena Boulevard,  
 13 Sacramento, California 95834

14 Notice of each payment must be concurrently sent to Danielle A. Stoumbos, Senior Counsel,  
15 Enforcement Division, via electronic mail at: Danielle.Stoumbos@dfpi.ca.gov.

16 54. This Order shall be binding upon BlockFi, its parent and affiliates, and their respective  
17 successors and assigns with respect to the provisions above and all future obligations, responsibilities,  
18 undertakings, commitments, limitations, restrictions, events, and conditions.

19 SIGNED AND ENTERED BY THE CALIFORNIA COMMISSIONER OF FINANCIAL  
20 PROTECTION AND INNOVATION this 23<sup>rd</sup> day of February, 2022.



21 CLOTHILDE V. HEWLETT  
22 Commissioner of Financial Protection and  
23 Innovation

24 By: \_\_\_\_\_  
25 Mary Ann Smith  
26 Deputy Commissioner of Enforcement  
27  
28

1 **CONSENT TO ENTRY OF ADMINISTRATIVE ORDER BY BLOCKFI LENDING LLC**

2 BlockFi hereby acknowledges that it has been served with a copy of this Order, has read the  
3 foregoing Order, is aware of its right to a hearing and appeal in this matter, and has waived the same.

4 BlockFi admits the jurisdiction of the California Department of Financial Protection and  
5 Innovation, neither admits nor denies the Findings of Facts and Conclusions of Law contained in this  
6 Order, and consents to entry of this Order by the California Department of Financial Protection and  
7 Innovation as settlement of the issues contained in this Order.

8 BlockFi agrees that it shall not claim, assert, or apply for a tax deduction or tax credit with  
9 regard to any state, federal, or local tax for any administrative penalty that BlockFi shall pay  
10 pursuant to this Order.

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

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

15 Dated this 23<sup>rd</sup> day of February, 2022.

16 BlockFi Lending LLC

17 By: \_\_\_\_\_

18 Title: General Counsel

19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**CONSENT TO ENTRY OF ADMINISTRATIVE ORDER BY BLOCKFI INC.**

BlockFi Inc., BlockFi Lending LLC’s parent, hereby acknowledges that it has been served with a copy of this Order, has read the foregoing Order, is aware of its right to a hearing and appeal in this matter, and has waived the same.

BlockFi Inc. admits the jurisdiction of the California Department of Financial Protection and Innovation, neither admits nor denies the Findings of Facts and Conclusions of Law contained in this Order, and consents to entry of this Order by the California Department of Financial Protection and Innovation as settlement of the issues contained in this Order.

BlockFi Inc. unconditionally guarantees payment of the administrative penalty in the amount of nine hundred forty-three thousand three hundred ninety-six dollars and twenty-two cents (\$943,396.22) as agreed in this Order.

BlockFi Inc. agrees that it shall not claim, assert, or apply for a tax deduction or tax credit with regard to any state, federal, or local tax for any administrative penalty that BlockFi Inc. shall pay pursuant to this Order.

BlockFi Inc. states that no promise of any kind or nature whatsoever was made to it to induce it to consent to this Order and that it has consented to this Order voluntarily.

\_\_\_\_\_ represents that s/he is \_\_\_\_\_ 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 \_\_\_\_ day of \_\_\_\_\_, 2022.

BlockFi Inc.

By: \_\_\_\_\_

Title: \_\_\_\_\_