

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HISTORY ASSOCIATES INCORPORATED,

Plaintiff,

v.

FEDERAL DEPOSIT INSURANCE
CORPORATION,

Defendant.

Case No. 1:24-cv-1857-ACR

STATUS REPORT

Plaintiff History Associates Incorporated hereby submits the following status report.

1. On June 27, 2024, History Associates filed this suit against the FDIC under the Freedom of Information Act (“FOIA”) seeking “pause letters” that the FDIC sent to certain financial institutions related to their digital-asset activities. Dkt. 1. The FDIC had withheld the pause letters in their entirety under Exemption 8, which applies to matters “contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions.” 5 U.S.C. § 552(b)(8). The FDIC filed its answer on August 7. Dkt. 13. In its answer, the FDIC continued to assert that the pause letters are protected from disclosure in their entirety under Exemption 8. *Id.* at 7.

2. In their August 21 joint status report, the parties agreed that History Associates’ FOIA request had been fully processed and that the FDIC did not anticipate releasing any documents. Dkt. 14, at 2. Accordingly, the parties jointly proposed proceeding directly to summary judgment, *id.*, and on September 4, both filed notices of anticipated motions for summary judgment and requests for a pre-motion conference, Dkts. 16, 17. The FDIC maintained that the pause letters

may properly be withheld in their entirety and that “there is no reasonably segregable information” that must be disclosed. Dkt. 16, at 4; *see* Dkt. 20, at 3-4.

3. On September 18, the Court held a pre-motion conference on the anticipated motions. *See* Sept. 18, 2024, Minute Order. At the conference, the Court directed the FDIC to produce a “Vaughn index declaration” within 30 days and further directed the FDIC, in preparing the index, to “go through the [pause] letters ... and determine whether any part of the letter can be sent over with the rest of it redacted” “along with the declaration.” Transcript of Sept. 18, 2024, Pre-Motion Conference, at 9:7-8, 10:5, 15-18 (Exhibit A). The Court stated that, if History Associates was “not satisfied” with the FDIC’s production, the Court would review within 15 days a “random sample” of five letters in camera to determine whether “there are redactions that could have been made such that some of the letter should go to [History Associates].” *Id.* at 9:11-15, 10:11-13, 11:6, 11:12, 12:2-4; *see also* Sept. 18, 2024 Minute Order.

4. On October 18, the FDIC produced a Vaughn index but did not produce any of the pause letters—redacted or otherwise. The Vaughn index contains descriptions of 23 letters issued between March and October 2022. The FDIC later made minor amendments to the index (Exhibit B).

5. On October 24, History Associates informed the FDIC that it is not satisfied with the FDIC’s summary of the pause letters contained in the Vaughn index (unaccompanied by any redacted letters) and maintains that, based on the FDIC’s description of the pause letters in the index, at a minimum redacted versions of the pause letters should be produced. History Associates also informed the FDIC that it intended to seek in camera review of the pause letters and proposed submitting a joint status report to that effect.

6. On October 29, the FDIC informed History Associates that it opposes in camera review of the pause letters at this stage. The FDIC apparently had not reviewed the pause letters to “determine whether any part of the letter[s] can be sent over with the rest of it redacted” before it produced the Vaughn index. Exhibit A, 10:17-18. Instead, the FDIC stated that the parties should *now* attempt to negotiate issues regarding segregability and production of redacted versions—without offering any timeline for doing so.

7. On October 30, History Associates proposed that the parties submit a joint status report on October 31 updating the Court on the FDIC’s production. History Associates’ proposed status report would have suggested to the Court that the parties’ next joint status report be due December 6, in order to afford additional time for the FDIC to identify portions of the pause letters that can be produced and for History Associates to evaluate whether the produced redacted letters (if any) were satisfactory.

8. The FDIC opposed that proposal as well. On November 1, the FDIC informed History Associates that it does not believe the Court directed it to provide redacted letters along with the Vaughn index. And although the FDIC now says that it intends to produce redacted letters, it would not commit to doing so on the timeline proposed by History Associates. Instead, the FDIC now takes the position that, because History Associates may want this Court to review the pause letters in camera to confirm the accuracy of the descriptions of the letters in the Vaughn Index, the agency would prefer to submit the pause letter samples and proposed redactions to the Court for in camera review, rather than providing redacted letters to History Associates first.

9. The parties now appear to be at an impasse. This Court instructed the FDIC by October 18 both to provide a “Vaughn index declaration” and, “along with the declaration,” to “go through the letters ... and determine whether any part of the letter can be sent over with the rest of

it redacted.” Exhibit A, 10:5, 10:14-18. The FDIC has completed the first task and produced a Vaughn index (Exhibit B), but not the second. And it evidently believes that it can further delay providing History Associates with redacted letters until this Court reviews them in camera. But in History Associates’ view, the point of requiring the FDIC to produce redacted letters along with the Vaughn index was that doing so might eliminate the need for in camera review entirely—or at least limit the review to merely confirming that the FDIC has accurately described the pause letters. Only after seeing the redacted letters can History Associates make an informed judgment whether it would be satisfied by production of redacted versions of the letters, or whether instead to request in camera review.

10. In light of these developments, History Associates respectfully submits that it would be appropriate for the Court to reinforce its prior instruction to the FDIC to review the letters to determine if any segregable portions may be produced and to produce any such portions promptly to History Associates. As to the timeline, History Associates remains willing to adhere to the extended schedule it proposed to the FDIC, under which the FDIC would produce any redacted versions by November 22, and the parties would submit a further joint status report by December 6, apprising the Court whether History Associates is satisfied with the FDIC’s production or requests in camera review of the unredacted letters.

Date: November 1, 2024

Respectfully submitted,

/s/ Jonathan C. Bond

Eugene Scalia

Jonathan C. Bond

Nick Harper

Aaron Hauptman

GIBSON, DUNN & CRUTCHER LLP

1050 Connecticut Avenue, N.W.

Washington, D.C. 20036

Telephone: 202.955.8500

Facsimile: 202.467.0539

escalia@gibsondunn.com

jbond@gibsondunn.com

nharper@gibsondunn.com

ahauptman@gibsondunn.com

Attorneys for Plaintiff

Exhibit A

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

HISTORY ASSOCIATES INCORPORATED) CIVIL NO.:
Plaintiff,) 24-1858-ACR
vs.)
FEDERAL DEPOSIT INSURANCE)
CORPORATION,)
Defendant.) September 18, 2024
Washington, D.C.
3:15 p.m.

Transcript of Pre-motion Conference
Before the Honorable Ana C. Reyes
United States District Judge

APPEARANCES:

For the Plaintiff: Denis Nicholas Harper, Esquire
Jonathan C. Bond, Esquire
Aaron Hauptman, Esquire
Gibson, Dunn & Crutcher
1700 M Street, NW
Washington, DC 20036

For the Defendant: Lina Soni, Esquire
Daniel H. Kurtenbach, Esquire
Federal Deposit Insurance Corporation
Legal Division
3501 Fairfax Drive
Arlington, VA 22226

Reported by: Christine T. Asif, RPR, FCRR
Federal Official Court Reporter
333 Constitution Avenue, NW
Washington, D.C. 20001
(202) 354-3247

Proceedings recorded by machine shorthand; transcript produced
by computer-aided transcription

P R O C E E D I N G S

THE COURT: Mr. Hopkins, could you please call the case.

THE CLERK: Absolutely, Your Honor. We're in civil action 24-1857, History Associates Incorporated versus Federal Deposit Insurance Corporation.

If I can have counsel approach the podium, state your names for the record, starting with the plaintiff.

MR. HARPER: Good afternoon, Your Honor. Nick Harper for plaintiff History Associates Incorporated. With me at counsel's table are my colleagues from Gibson Dunn, Jonathan Bond and Aaron Hauptman.

THE COURT: All right. Good afternoon, everyone.

MS. SONI: Good afternoon, Your Honor. My name is Lina Soni. I'm here with my colleague, Daniel Kurtenbach. And we represent the FDIC.

THE COURT: Hello, Ms. Soni.

All right. So I've gotten your FOIA pre-motion notices. I will tell you that I am hugely interested in every financial crisis that has ever existed. So any financial book about any financial crisis I have read. I know because I keep seeing others that I haven't read. And actually yesterday someone recommended to me *The Man Who Knew*, which is the biography of Alan Greenspan. One of the biographies of Alan Greenspan, and I've been tearing through it. So if you have

1 anything you want to read involving the economy and you have
2 read everything else, I highly recommend *The Man Who Knew*.

3 But for that reason I'm also pretty up to speed on
4 all of the ways that the government does and does not regulate
5 businesses and how that does and does not lead to catastrophic
6 issues. But is there just basically -- is it basically the
7 simple issue here whether or not the pause letters fit
8 Exception 8? And if they don't, whether some parts of them
9 do?

10 MR. HARPER: Want me to come up to the podium?

11 THE COURT: Yeah.

12 MR. HARPER: Yes, that's right, Your Honor.

13 THE COURT: So how does -- I mean, the reason I have
14 these pre-motion conferences, I don't think you -- I don't
15 think you all -- I don't think Gibson Dunn has been in front
16 of me on this before. The reason I have them is in some
17 cases, actually in most, like over 50 percent of the cases,
18 I'm actually able to get rid of the motion without having to
19 have briefing or a hearing. You've seen this. Because I tell
20 the parties what I'm thinking and I make them go and mediate
21 and settle, as she has sat through. And that gets through a
22 lot of my -- especially the cases against D.C. and the
23 employment and discrimination cases. I get rid of a lot of
24 those. And sometimes I actually also am able to narrow the
25 issues before we have to have full briefing.

1 In one case, like the two parties -- like the party
2 who wanted to bring a summary judgment motion literally didn't
3 understand what another party had done. And when the other
4 party explained it and gave a letter they were like, oh, I
5 guess we don't have a motion. So it happens. I don't know if
6 it will happen here.

7 Another reason I have these is because when we talk
8 through things you'll have a better understanding of where my
9 head is. So, therefore, it's easier, I think, hopefully, for
10 people to write their briefs. In fact, I just had a long
11 argument today where a pre-motion conference had led the --
12 both parties to sort of brief the thing knowing what my
13 concerns were. So my concerns were being addressed in the
14 briefing.

15 Which is all to say, Mr. Harper, that I'm going to
16 ask you this question, which is going to sound like -- because
17 it is a merits question, but I'm not putting you on the
18 spot -- if you guys want to file your motions I'll let you --
19 I'm just trying to see what your initial answers are if you
20 have them. Does that make sense?

21 MR. HARPER: Sure. Yes.

22 THE COURT: Okay. So explain to me -- I mean, I'm
23 just -- the pause letter -- do you guys agree what the pause
24 letter was even? I mean, you're saying it's basically just a
25 letter that says, stop doing stuff until we figure things

1 out.

2 MR. HARPER: So that's our understanding of the
3 letters. And we're basing this largely on what we've seen
4 from the FDIC's Office of Inspector General report from 2023,
5 we obviously haven't seen the letters.

6 THE COURT: Okay. Ms. Soni, you can come up. Is
7 that what the letters show, I mean, are they basically form
8 letters?

9 MS. SONI: No. They're not form letters. And the
10 OIG report doesn't indicate that they're form letters. In
11 fact, the letters differ with respect to content, length,
12 author, and send date. They are absolutely supervisory
13 letters. They've referenced specific --

14 THE COURT: You need to slow down.

15 MS. SONI: They reference specific conversations
16 between financial institution's staff and the FDIC, specific
17 products related to that institution, ongoing or upcoming
18 examinations, as well as institution specific banking and
19 marketing plans. In other words, they're not form letters.

20 THE COURT: Okay. Are there any parts of them that
21 are form? Are they like the first two paragraphs are in every
22 letter, but everything else is different.

23 MS. SONI: These letters are tailored to the
24 institutions that receive them. And they were part of FDIC's
25 overarching exercise of supervising these financial

1 institutions. They meet the definition of what is required
2 under Exemption 8. Exemption 8 exempts any information that
3 is contained in or related to an examination, operating, or
4 condition report prepared by, on behalf of, or for the use of
5 an agency supervising or regulating a financial institution.
6 That's exactly what we have here.

7 THE COURT: Okay. All right.

8 Mr. Harper. Putting aside whether or not you agree
9 or disagree with what she has just said, if what she just said
10 is accurate, would you agree those are covered by Exemption 8?

11 MR. HARPER: So I don't think so, Your Honor. I
12 think what my friend just said is that these letters have sort
13 of bank specific information in them. But I think what
14 Exemption 8 requires is that this information is either
15 contained in or related to an examination, condition, or
16 operating report. And at least so far the FDIC hasn't said
17 that this information is related to any such report. And,
18 indeed, the OIG report suggested that there was no supervisory
19 feedback given to at least many of these -- in response to
20 many of these letters --

21 THE COURT: Well, but hold on. When were these
22 communications issued?

23 MR. HARPER: They were I believe between 2022 and
24 2023.

25 THE COURT: Okay. I mean, that's not a tremendously

1 long period of time for a government agency to not have
2 responded yet. Is it true you haven't responded to these
3 pause letters, that everything is still on pause?

4 MR. KURTENBACH: May I? Thank you, Your Honor. The
5 OIG report itself has information about what the FDIC had been
6 doing, including, you know, they received information from so
7 many institutions. They've responded to so many institutions.
8 They responded to institutions that were not sent letters. So
9 there's -- apparently the FDIC was doing things, but the OIG
10 felt they should have had a better plan and should have been
11 more efficient about it.

12 THE COURT: Well, I mean either of you, I don't care
13 who answers this question, whoever's best able the answer it.
14 Was part of the letter we want you guys to calm down for a bit
15 with crypto until we figure out how we're going to regulate
16 this? Like at the end of the day are they right about that,
17 can you say?

18 MS. SONI: Your Honor, the contents of the
19 supervisory letters are exempt from disclosure. And to the
20 extent that any portion of those letters were made public by
21 the OIG report, the portions that History Associates is citing
22 to is already available to them.

23 But as to your question about whether or not these
24 meet the requirements of Exemption 8, this circuit has
25 described Exemption 8 no fewer than 15 times as particularly

1 broad and all inclusive. This court in 1980, in *Atkinson* held
2 that documents that, quote, "represent the foundation of the
3 examination process, the findings of such an examination, or
4 its follow-up, are exempt under 8."

5 THE COURT: Yeah, so is this -- I mean, was this
6 part of an examination?

7 MS. SONI: Absolutely -- yes, Your Honor. These are
8 documents that are contained in or related to an examination.
9 The FDIC --

10 THE COURT: How can you prove that to him or to me?

11 MS. SONI: Well, I mean, we have stated in our
12 filings that how -- how these are not form letters, we have
13 described in detail the type of information that is available
14 here. We can also do that through a Vaughn index.

15 THE COURT: Well, that's what I was about to say.

16 MS. SONI: Absolutely.

17 THE COURT: Would you guys be happy if they just
18 submitted a declaration to you guys sort of putting whatever
19 she just said to me on paper and, you know, another thing that
20 we could do -- because she's going to have to do that whether
21 you file summary judgment. I mean, if you file summary
22 judgment, if anyone files summary judgment, that's going to
23 have to happen.

24 MS. SONI: Right. And if you would like to -- if
25 the Court would like us to narrow the issues before those

1 motions are filed, we're certainly happy to do that.

2 THE COURT: It seems to me that there's only one
3 issue.

4 MS. SONI: Yeah.

5 THE COURT: Like whether these pause letters fit or
6 don't.

7 What if we did this: What if she gets you the
8 Vaughn index in a reasonable amount of time and we can set the
9 time. And if you guys need to talk about it, that's fine. If
10 at that point you're satisfied, you guys tell me and you guys
11 all go to your greener pastures. If you're not satisfied at
12 that point what I can do is look at three, four, five of the
13 letters in the declaration -- or in camera. And we can all
14 come back and I can say to you everything they said was
15 accurate.

16 I mean, if we did it that way -- I find it hard to
17 believe that there's nothing in the letters that can't be
18 shown if you have redactions. I mean, certainly if there was
19 something that was quoted or referenced in the OIG report, you
20 could certainly send that in unredacted. I mean that part in
21 unredacted.

22 MS. SONI: The contents of these letters are
23 tailored to the financial institutions that receive them. And
24 as such they meet the definition of Exemption 8 and the
25 disclosure of this information would either -- could harm the

1 stability of the institution or the very delicate relationship
2 between the regulated and the regulator.

3 THE COURT: I get the big overall picture, but --
4 let me put it to you this way: If we go forward and if they
5 tell me that your Vaughn index declaration, where you put in
6 paper that this is part of an examination and it was, you
7 know, everything you said here essentially, and anything else
8 that's relevant. And they're like we actually want the judge
9 to double check this. And so I look at these in camera. If I
10 look at them in camera and there are portions that I feel
11 could easily have been sent in -- if there are redactions that
12 could have been made such that some of the letter should go to
13 them, then I'm going to be pretty annoyed, because what I'm --
14 so let me put it to you this way: When we leave here, along
15 with the declaration, I'm going to ask that you and someone
16 from the FDIC go through the letters, at least three or four
17 of them, and determine whether any part of the letter can be
18 sent over with the rest of it redacted.

19 MS. SONI: Of course.

20 THE COURT: Okay. And when you're doing that
21 review, keep in mind that I'm going to be the one looking at
22 whether or not you made proper redactions. And that my
23 patience for people making me do these things is very thin.

24 MS. SONI: Okay.

25 THE COURT: Okay. How does that sound to you guys?

1 MR. HARPER: I think that would work. One thing
2 that I would suggest is that the letters provided to you
3 after, if the Vaughn indices are not satisfactory, be a random
4 sample of the letters.

5 THE COURT: Yeah, so Ms. Soni, if we do have to do
6 this sampling to me, they should be a totally random sample,
7 just literally, I don't know, throw them all into a big pile
8 and take like four off the floor. I don't know how you want
9 to do it. I would ask for five and -- how many letters are
10 there total?

11 MS. SONI: 23.

12 THE COURT: Five would be more than sufficient then.
13 And random.

14 Okay. How long do you think it would take you to
15 get together the Vaughn index and go through to see if you can
16 make any redactions?

17 MS. SONI: Three weeks, Your Honor.

18 THE COURT: Okay. Why don't we give her a month.
19 And why don't you guys give me a joint status report.

20 I will give you a month to get the declarations to
21 him. You guys send me a joint status report within 30 days of
22 you having sent it to him. Okay. And if the joint status
23 report is we're all happy. We can all go home. It will be
24 another one of my things that work, you can tell your
25 colleagues, because I know they get annoyed, saving everyone

1 the need to file a draft of summary judgment motion.

2 And if you need me to look at them, I promise you I
3 will get to them probably within 15 days. Okay? And then
4 we'll all get back if we need to.

5 Okay. All right. Thank you, everyone.

6 (The proceedings were concluded at 3:28 p.m.)

7 I, Christine Asif, RPR, FCRR, do hereby certify that
8 the foregoing is a correct transcript from the stenographic
9 record of proceedings in the above-entitled matter.

10 /s/

Christine T. Asif
Official Court Reporter

Exhibit B

FDIC's VAUGHN INDEX

Document 1

Format: Letter (1 page, 2 paragraphs)

Date: March 11, 2022

From: Eric T. Guyot, Assistant Regional Director, FDIC Dallas Regional Office

To: The board of directors of a bank

Purpose: The letter is part of an ongoing dialogue between the bank and the FDIC in which the FDIC is seeking to obtain information about a proposed crypto-asset product of the bank in order to assess potential safety and soundness and consumer protection risks that may be faced by the bank, specifically, and the banking industry generally, as discussed in a report by the FDIC Office of Inspector General, *FDIC Strategies Related to Crypto-Asset Risks*, Eval-24-01 (Oct. 2023).

Description of Content: The letter relates that the FDIC received the bank's submission of information concerning a proposed new crypto-asset product, describes the nature of the product proposed by the bank, and that it is intended for bank customers. The letter further states that the FDIC has not yet made certain determinations about that type of activity, and asks that the bank pause all crypto asset-related activity. The letter states that the FDIC will provide notification when a determination of supervisory issues has been made.

FOIA Exemption 8: As part of an ongoing close inquiry, inspection, and investigation of the safety and soundness risk and consumer protection risk to the bank from engaging in crypto-asset activities, and because the document itself discusses a specific crypto-asset product proposed by the bank for bank customers, makes a safety and soundness and consumer protection recommendation to the bank, and advises that the FDIC is considering the supervisory implications of the bank's proposed product, the letter constitutes an examination report for purposes of FOIA Exemption 8.

Document 2

Format: Letter (1 page, 3 paragraphs)

Date: March 15, 2022

From: Frank R. Hughes, Acting Regional Director, FDIC Atlanta Regional Office

To: The president of a bank

Purpose: The letter is part of an ongoing dialogue between the bank and the FDIC in which the FDIC is seeking to obtain information about a proposed crypto-asset service of the bank in order to assess potential safety and soundness and consumer protection risks that may be faced by the bank, specifically, and the banking industry generally, as discussed in a report by the FDIC Office of Inspector General, *FDIC Strategies Related to Crypto-Asset Risks*, Eval-24-01 (Oct. 2023).

Description of Content: The letter relates that the FDIC held discussions with the bank and reviewed bank documentation concerning a proposed new crypto-asset service, details how the service proposed by the bank would work, and that it is intended for bank clients. The letter asks that the bank notify the FDIC of any changes to or expansion of the proposed service, and that in such case, the FDIC may have additional questions prior to the bank expanding this service to ensure the bank is operating in a safe and sound manner.

FOIA Exemption 8: As part of an ongoing close inquiry, inspection, and investigation of the safety and soundness risk and consumer protection risk to the bank from engaging in crypto-asset activities, and because the document itself discusses a specific crypto-asset service proposed by the bank for bank customers, makes a safety and soundness and consumer protection recommendation to the bank, and advises that the FDIC is considering the supervisory implications of the bank's proposed service, the letter constitutes an examination report for purposes of FOIA Exemption 8.

Document 3

Format: Letter (2 pages, 5 paragraphs)

Date: March 25, 2022

From: Jessica A. Kaemingk, Acting Regional Director, FDIC New York Regional Office

To: The board of directors of a bank

Purpose: The letter is part of an ongoing dialogue between the bank and the FDIC in which the FDIC is seeking to obtain information about existing crypto-asset activities of the bank in order to assess potential safety and soundness and consumer protection risks that may be faced by the bank, specifically, and the banking industry generally, as discussed in a report by the FDIC Office of Inspector General, *FDIC Strategies Related to Crypto-Asset Risks*, Eval-24-01 (Oct. 2023).

Description of Content: The letter relates that the bank is working with partners to develop a crypto-asset program and held discussions with the FDIC and other regulators about the program and preparations being made for implementation. The letter

states that the FDIC has questions based on the information provided so far and seeks further information prior to implementation to ensure that the bank is operating in a safe and sound manner. The letter further states that the questions will be provided in a subsequent communication.

FOIA Exemption 8: As part of an ongoing close inquiry, inspection, and investigation of the safety and soundness risk and consumer protection risk to the bank from engaging in crypto-asset activities, and because the document itself discusses specific crypto-asset activities engaged in by the bank, makes a safety and soundness recommendation to the bank, and advises that the FDIC is considering the supervisory implications of the bank's activities, the letter constitutes an examination report for purposes of FOIA Exemption 8.

Document 4

Format: Letter (2 pages, 5 paragraphs)

Date: March 25, 2022

From: Jessica A. Kaemingk, Acting Regional Director, FDIC New York Regional Office

To: The board of directors of a bank

Purpose: The letter is part of an ongoing dialogue between the bank and the FDIC in which the FDIC is seeking to obtain information about a proposed crypto-asset product of the bank in order to assess potential safety and soundness and consumer protection risks that may be faced by the bank, specifically, and the banking industry generally, as discussed in a report by the FDIC Office of Inspector General, *FDIC Strategies Related to Crypto-Asset Risks*, Eval-24-01 (Oct. 2023).

Description of Content: The letter relates that the bank notified the FDIC of its proposal to implement a new crypto-asset product and discussed the launch of the proposed product with the FDIC and other regulators. The letter describes the product as it relates to existing bank technology and notes its intended audience. The letter states that the FDIC has questions based on the information provided so far and seeks further information to ensure the bank will be engaging in this new activity in a safe and sound manner. The letter further states that questions and document requests will be provided in a subsequent communication and will need to be addressed prior to launching the product.

FOIA Exemption 8: As part of an ongoing close inquiry, inspection, and investigation of the safety and soundness risk and consumer protection risk to the bank from engaging in crypto-asset activities, and because the document itself discusses a specific crypto-asset product proposed by the bank, makes a safety and soundness and consumer protection recommendation to the bank, and advises that the FDIC

History Associates Inc. v. FDIC, No. 1:24-cv-1857-ACR (D.D.C.)
FDIC's Vaughn Index per Minute Order Sep. 18, 2024

is considering the supervisory implications of the bank's proposed product, the letter constitutes an examination report for purposes of FOIA Exemption 8.

Document 5

Format: Letter (1 page, 3 paragraphs)

Date: April 5, 2022

From: Gregory Bottone, Regional Director, FDIC Chicago Regional Office

To: The board of directors of a bank

Purpose: The letter is part of an ongoing dialogue between the bank and the FDIC in which the FDIC is seeking to obtain information about an existing crypto-asset service of the bank in order to assess potential safety and soundness and consumer protection risks that may be faced by the bank, specifically, and the banking industry generally, as discussed in a report by the FDIC Office of Inspector General, *FDIC Strategies Related to Crypto-Asset Risks*, Eval-24-01 (Oct. 2023).

Description of Content: The letter relates that the bank met with the FDIC and other regulators to discuss crypto-asset services being offered by the bank. The letter describes the services, the technology used, and the number of customers that can use the services. The letter states that following the meeting, the bank provided additional documentation concerning the bank's risk assessment and due diligence efforts. The letter states that the FDIC has questions based on the information provided so far, including the bank's legal analysis, assessment of compliance with FDIC regulations, safety and soundness, and consumer protection. The letter further states that the FDIC plans to perform a detailed review and will seek further information at the upcoming scheduled bank examination. Finally, the letter states that until such review is completed, the bank should not expand the service to additional customers.

FOIA Exemption 8: As part of an ongoing close inquiry, inspection, and investigation of the safety and soundness risk and consumer protection risk to the bank from engaging in crypto-asset activities, and because the document itself discusses a specific crypto-asset service offered by the bank for bank customers, makes a safety and soundness and consumer protection recommendation to the bank, and advises that the FDIC is considering the supervisory implications of the bank's service, the letter constitutes an examination report for purposes of FOIA Exemption 8.

History Associates Inc. v. FDIC, No. 1:24-cv-1857-ACR (D.D.C.)
FDIC's Vaughn Index per Minute Order Sep. 18, 2024

Document 6

Format: Letter (1 page, 2 paragraphs)

Date: April 15, 2022

From: Joseph A. Meade, Assistant Regional Director, FDIC Dallas Regional Office

To: The board of directors of a bank

Purpose: The letter is part of an ongoing dialogue between the bank and the FDIC in which the FDIC is seeking to obtain information about proposed crypto-asset product of the bank in order to assess potential safety and soundness and consumer protection risks that may be faced by the bank, specifically, and the banking industry generally, as discussed in a report by the FDIC Office of Inspector General, *FDIC Strategies Related to Crypto-Asset Risks*, Eval-24-01 (Oct. 2023).

Description of Content: The letter relates that the FDIC received the bank's submission of information concerning a proposed new crypto-asset product, describes the nature of the product proposed by the bank, how it will be accessed by bank customers, and what the product offers. The letter further states that the FDIC has not yet made certain determinations about that type of activity, and asks that the bank pause all crypto-asset activity. The letter states that the FDIC will provide notification when a determination of supervisory issues has been made.

FOIA Exemption 8: As part of an ongoing close inquiry, inspection, and investigation of the safety and soundness risk and consumer protection risk to the bank from engaging in crypto-asset activities, and because the document itself discusses a specific crypto-asset product proposed by the bank for bank customers, makes a safety and soundness and consumer protection recommendation to the bank, and advises that the FDIC is considering the supervisory implications of the bank's proposed product, the letter constitutes an examination report for purposes of FOIA Exemption 8.

Document 7

Format: Letter (2 pages, 5 paragraphs)

Date: April 22, 2022

From: Jessica A. Kaemingk, Acting Regional Director, FDIC New York Regional Office

To: The board of directors of a bank

Purpose: The letter is part of an ongoing dialogue between the bank and the FDIC in which the FDIC is seeking to obtain information about existing crypto-asset activities of the bank in order to assess potential safety and soundness and consumer protection risks that may be faced by the bank, specifically, and the banking industry generally, as discussed in a report by the FDIC Office of Inspector General, *FDIC Strategies Related to Crypto-Asset Risks*, Eval-24-01 (Oct. 2023).

Description of Content: The letter relates that the bank is developing a crypto-asset program and participated in discussions with the FDIC, other regulators, and other institutions. The letter states that the bank has conducted due diligence and provided updates to the FDIC. The letter notes that it is a follow-up to a previous call between the bank and the FDIC. The letter states that the FDIC has questions based on the information provided so far and seeks further information and that questions and document requests will be provided in a subsequent communication and will need to be addressed prior to implementation, and states that FDIC seeks to gain an understanding of how the bank will ensure continued safe and sound operation as this activity is further implemented.

FOIA Exemption 8: As part of an ongoing close inquiry, inspection, and investigation of the safety and soundness risk and consumer protection risk to the bank from engaging in crypto-asset activities, and because the document itself discusses a specific crypto-asset activity engaged in by the bank, makes a safety and soundness and consumer protection recommendation to the bank, and advises that the FDIC is considering the supervisory implications of the bank's existing activity, the letter constitutes an examination report for purposes of FOIA Exemption 8.

Document 8

Format: Letter (1 page, 3 paragraphs, plus 5-page attachment)

Date: April 25, 2022

From: Kristie Elmquist, Regional Director, FDIC Dallas Regional Office

To: The board of directors of a bank

Purpose: The letter is part of an ongoing dialogue between the bank and the FDIC in which the FDIC is seeking to obtain information about existing crypto-asset activity and proposed products of the bank in order to assess potential safety and soundness and consumer protection risks that may be faced by the bank, specifically, and the banking industry generally, as discussed in a report by the FDIC Office of Inspector General, *FDIC Strategies Related to Crypto-Asset Risks*, Eval-24-01 (Oct. 2023).

Description of Content: The letter relates that the FDIC and other regulators met with the bank and other institutions concerning crypto-asset activities, and that the bank hopes to offer a crypto-asset product. The letter notes previous communications with the bank about the product, and that the FDIC has questions based on the information provided so far. A list of questions is attached to the letter. The letter states that FDIC expects the bank to satisfactorily address the questions in advance of implementation to ensure the bank is operating in a safe and sound manner and that the requested information is necessary to allow the agency to assess the safety and soundness, consumer protection, and financial stability implications of such activities.

FOIA Exemption 8: As part of an ongoing close inquiry, inspection, and investigation of the safety and soundness risk and consumer protection risk to the bank from engaging in crypto-asset activities, and because the document itself discusses specific crypto-asset activity and proposed products pertaining to the bank, makes a safety and soundness and consumer protection recommendation to the bank, and advises that the FDIC is considering the supervisory implications of the bank's proposed product and existing activity, the letter constitutes an examination report for purposes of FOIA Exemption 8.

Document 9

Format: Letter (1 page, 3 paragraphs)

Date: May 4, 2022

From: J. Mark Love, Assistant Regional Director, FDIC Dallas Regional Office

To: The board of directors of a bank

Purpose: The letter is part of an ongoing dialogue between the bank and the FDIC in which the FDIC is seeking to obtain information about a proposed crypto-asset service of the bank in order to assess potential safety and soundness and consumer protection risks that may be faced by the bank, specifically, and the banking industry generally, as discussed in a report by the FDIC Office of Inspector General, *FDIC Strategies Related to Crypto-Asset Risks*, Eval-24-01 (Oct. 2023).

Description of Content: The letter relates that the FDIC received the bank's submission of information concerning a proposed new crypto-asset service, describes the nature of the service proposed by the bank, how it will be accessed by bank customers, and what the service offers. The letter further states that the FDIC has not yet made certain determinations about that type of activity, and asks that the bank not implement this service, while the FDIC considers this crypto-asset related activity.

FOIA Exemption 8: As part of an ongoing close inquiry, inspection, and investigation of the safety and soundness risk and consumer protection risk to the bank from engaging in crypto-asset activities, and because the document itself discusses a specific crypto-asset service proposed by the bank for bank customers, makes a safety and soundness and consumer protection recommendation to the bank, and advises that the FDIC is considering the supervisory implications of the bank's proposed service, the letter constitutes an examination report for purposes of FOIA Exemption 8.

Document 10

Format: Letter (2 pages, 6 paragraphs)

Date: May 13, 2022

From: Kristie K. Elmquist, Regional Director, FDIC Dallas Regional Office

To: The board of directors of a bank

Purpose: The letter is part of an ongoing dialogue between the bank and the FDIC in which the FDIC is seeking to obtain information about an existing crypto-asset service of the bank in order to assess potential safety and soundness and consumer protection risks that may be faced by the bank, specifically, and the banking industry generally, as discussed in a report by the FDIC Office of Inspector General, *FDIC Strategies Related to Crypto-Asset Risks*, Eval-24-01 (Oct. 2023).

Description of Content: The letter relates that the bank notified the FDIC and other regulators of the bank's intent to offer bank customers certain crypto-asset services. The letter describes the technology to be used, the specific services to be offered by the bank, and how those services would be accessed by bank customers. The letter further notes previous communications with the bank by letters and phone call. The letter states that the bank later updated the FDIC regarding the service's status and breadth. The letter states that the FDIC has questions based on the information provided so far, including the bank's legal analysis, assessment of compliance with FDIC regulations, safety and soundness, and consumer protection. The letter states that the FDIC will seek further information to assist it in reviewing the activity and providing supervisory feedback to the bank. Finally, the letter states that until such review is completed, the FDIC requests that the bank refrain from expanding this service to additional customers.

FOIA Exemption 8: As part of an ongoing close inquiry, inspection, and investigation of the safety and soundness risk and consumer protection risk to the bank from engaging in crypto-asset activities, and because the document itself discusses a

specific crypto-asset service offered by the bank for bank customers, makes a safety and soundness and consumer protection recommendation to the bank, and advises that the FDIC is considering the supervisory implications of the bank's service, the letter constitutes an examination report for purposes of FOIA Exemption 8.

Document 11

Format: Letter (1 page, 3 paragraphs)

Date: June 22, 2022

From: Jessica A. Kaemingk, Acting Regional Director, FDIC New York Regional Office

To: The board of directors of a bank

Purpose: The letter is part of an ongoing dialogue between the bank and the FDIC in which the FDIC is seeking to obtain information about a proposed crypto-asset activity of the bank in order to assess potential safety and soundness and consumer protection risks that may be faced by the bank, specifically, and the banking industry generally, as discussed in a report by the FDIC Office of Inspector General, *FDIC Strategies Related to Crypto-Asset Risks*, Eval-24-01 (Oct. 2023).

Description of Content: The letter relates that the bank notified the FDIC of its intent to engage in crypto-asset activities, notes that FDIC staff has met numerous times over several months with bank management, and the bank has kept the FDIC updated as to its plans and efforts. The letter states that the FDIC has questions based on the information provided so far and plans to conduct a targeted review of the bank's planned activities to gain an understanding of how the bank will ensure continued safe and sound operations and consumer protections, should these activities be implemented. The letter notes that a document request list was provided separately, and the bank should address the questions in advance of implementation of the proposed activities in order for the FDIC to assess the safety and soundness of the proposed activities and compliance with laws and regulations.

FOIA Exemption 8: As part of an ongoing close inquiry, inspection, and investigation of the safety and soundness risk and consumer protection risk to the bank from engaging in crypto-asset activities, and because the document itself discusses a specific crypto-asset activity proposed by the bank, makes a safety and soundness and consumer protection recommendation to the bank, and advises that the FDIC is considering the supervisory implications of the bank's proposed activity, the letter constitutes an examination report for purposes of FOIA Exemption 8.

Document 12

Format: Letter (2 pages, 4 paragraphs)

Date: June 27, 2022

From: Gregory P. Bottone, Regional Director, FDIC Chicago Regional Office

To: The board of directors of a bank

Purpose: The letter is part of an ongoing dialogue between the bank and the FDIC in which the FDIC is seeking to obtain information about an existing crypto-asset service of the bank in order to assess potential safety and soundness and consumer protection risks that may be faced by the bank, specifically, and the banking industry generally, as discussed in a report by the FDIC Office of Inspector General, *FDIC Strategies Related to Crypto-Asset Risks*, Eval-24-01 (Oct. 2023).

Description of Content: The letter relates that the bank notified the FDIC and the state banking regulator of the bank's intent to offer crypto-asset services to bank customers. The letter describes the technology to be used, the services that will be available to customers, and how bank customers can access those services. The letter further states that the bank updated the FDIC on the service's status and current size. The letter states that the FDIC will seek further information to assist it in reviewing the activity and providing supervisory feedback to the bank. Finally, the letter states that until such review is completed, the FDIC requests that the bank refrain from expanding this service.

FOIA Exemption 8: As part of an ongoing close inquiry, inspection, and investigation of the safety and soundness risk and consumer protection risk to the bank from engaging in crypto-asset activities, and because the document itself discusses a specific crypto-asset service offered by the bank, makes a safety and soundness and consumer protection recommendation to the bank, and advises that the FDIC is considering the supervisory implications of the bank's existing service, the letter constitutes an examination report for purposes of FOIA Exemption 8.

Document 13

Format: Letter (1 page, 4 paragraphs)

Date: June 30, 2022

From: Jessica A. Kaemingk, Acting Regional Director, FDIC New York Regional Office

To: The board of directors of a bank

Purpose: The letter is part of an ongoing dialogue between the bank and the FDIC in which the FDIC is seeking to obtain information about an existing crypto-asset service of the bank in order to assess potential safety and soundness and consumer protection risks that may be faced by the bank, specifically, and the banking industry generally, as discussed in a report by the FDIC Office of Inspector General, *FDIC Strategies Related to Crypto-Asset Risks*, Eval-24-01 (Oct. 2023).

Description of Content: The letter relates that the bank notified the FDIC of the bank's intent to offer crypto-asset services to bank customers. The letter describes the technology to be used, the services that will be available to customers, and how bank customers can access those services. The letter notes that the bank provided status updates, responded to supervisory guidance, and met with FDIC and the state regulator. The letter states that the FDIC will seek further information to assist it in reviewing the activity and providing supervisory feedback to the bank. Finally, the letter states that until such review is completed, the FDIC requests that the bank refrain from expanding this service.

FOIA Exemption 8: As part of an ongoing close inquiry, inspection, and investigation of the safety and soundness risk and consumer protection risk to the bank from engaging in crypto-asset activities, and because the document itself discusses a specific crypto-asset service offered by the bank, makes a safety and soundness and consumer protection recommendation to the bank, and advises that the FDIC is considering the supervisory implications of the bank's existing service, the letter constitutes an examination report for purposes of FOIA Exemption 8.

Document 14

Format: Letter (2 pages, 5 paragraphs)

Date: July 14, 2022

From: Kristie K. Elmquist Regional Director, FDIC Dallas Regional Office

To: The board of directors of a bank

Purpose: The letter is part of an ongoing dialogue between the bank and the FDIC in which the FDIC is seeking to obtain information about an existing crypto-asset program of the bank in order to assess potential safety and soundness and consumer protection risks that may be faced by the bank, specifically, and the banking industry generally, as discussed in a report by the FDIC Office of Inspector General, *FDIC Strategies Related to Crypto-Asset Risks*, Eval-24-01 (Oct. 2023).

Description of Content: The letter relates that the bank notified the FDIC of the bank's program offering crypto-asset services to bank customers. The letter describes the technology used, the services available to customers, and how bank customers can

access those services. The letter discusses a meeting between the bank's management team and the FDIC, at which the bank informed the FDIC of the program's status and committed to provide additional information about the activity. The letter relates details regarding the program's size and customers. The letter states that the FDIC may seek further information to assist it in reviewing the activity and providing supervisory feedback to the bank. Finally, the letter states that until such review is completed, the FDIC requests that the bank refrain from expanding this service.

FOIA Exemption 8: As part of an ongoing close inquiry, inspection, and investigation of the safety and soundness risk and consumer protection risk to the bank from engaging in crypto-asset activities, and because the document itself discusses a specific crypto-asset program offered by the bank, makes a safety and soundness and consumer protection recommendation to the bank, and advises that the FDIC is considering the supervisory implications of the bank's program, the letter constitutes an examination report for purposes of FOIA Exemption 8.

Document 15

Format: Letter (2 pages, 6 paragraphs)

Date: July 27, 2022

From: Kathy L. Moe, Regional Director, FDIC San Francisco Regional Office

To: The board of directors of a bank

Purpose: The letter is part of an ongoing dialogue between the bank and the FDIC in which the FDIC is seeking to obtain information about a proposed crypto-asset service of the bank in order to assess potential safety and soundness and consumer protection risks that may be faced by the bank, specifically, and the banking industry generally, as discussed in a report by the FDIC Office of Inspector General, *FDIC Strategies Related to Crypto-Asset Risks*, Eval-24-01 (Oct. 2023).

Description of Content: The letter relates that the bank notified the FDIC and the state banking regulator of the bank's intent to offer crypto-asset services to bank customers. The letter describes the technology to be used, the services that will be available to customers, and how bank customers can access those services. The letter further states that the bank provided due diligence documents related to the proposed activities. The letter states that shortly thereafter, a joint FDIC and state safety and soundness bank examination began, and subsequently bank examiners and bank management met to discuss additional information requests, and demonstrate the proposed service. The letter states that the FDIC has requested information as part of the examination process and may seek further information to assist it in reviewing the activity and providing supervisory

History Associates Inc. v. FDIC, No. 1:24-cv-1857-ACR (D.D.C.)
FDIC's Vaughn Index per Minute Order Sep. 18, 2024

feedback to the bank. Finally, the letter states that until such review is completed, the FDIC requests that the bank refrain from expanding this service.

FOIA Exemption 8: As part of an ongoing close inquiry, inspection, and investigation of the safety and soundness risk and consumer protection risk to the bank from engaging in crypto-asset activities, and because the document itself discusses a specific crypto-asset service proposed by the bank, makes a safety and soundness and consumer protection recommendation to the bank, and advises that the FDIC is considering the supervisory implications of the bank's proposed service, the letter constitutes an examination report for purposes of FOIA Exemption 8.

Document 16

Format: Letter (3 pages, 4 paragraphs and a document request list)

Date: July 28, 2022

From: Kathy L. Moe, Regional Director, FDIC San Francisco Regional Office

To: The board of directors of a bank

Purpose: The letter is part of an ongoing dialogue between the bank and the FDIC in which the FDIC is seeking to obtain information about a proposed crypto-asset activity of the bank in order to assess potential safety and soundness and consumer protection risks that may be faced by the bank, specifically, and the banking industry generally, as discussed in a report by the FDIC Office of Inspector General, *FDIC Strategies Related to Crypto-Asset Risks*, Eval-24-01 (Oct. 2023).

Description of Content: The letter relates that the bank submitted its draft business plan to the FDIC (outlining an intent to offer crypto-asset services) and how the FDIC views the draft plan with respect to the bank's existing business model. The letter states that the FDIC will seek further information in order to assess the safety and soundness and consumer protection implications of the proposed activities. The letter expresses the FDIC's concern that the bank ensure that planned activities and strategies are consistent with current laws, rules, and regulations, as well as safety and soundness and consumer protection principles. The letter then sets out a list of materials that the FDIC wishes to review to assist it in assessing the activity and providing supervisory feedback to the bank. Finally, the letter states that until the FDIC completes its review, the FDIC requests that the bank not proceed with planned activities and that the bank continue to update the FDIC on developments in specific examination categories.

FOIA Exemption 8: As part of an ongoing close inquiry, inspection, and investigation of the safety and soundness risk and consumer protection risk to the bank from engaging in crypto-asset activities, and because the document itself discusses

History Associates Inc. v. FDIC, No. 1:24-cv-1857-ACR (D.D.C.)
FDIC's Vaughn Index per Minute Order Sep. 18, 2024

specific crypto-asset activity proposed by the bank, makes a safety and soundness and consumer protection recommendation to the bank, and advises that the FDIC is considering the supervisory implications of the bank's proposed activity, the letter constitutes an examination report for purposes of FOIA Exemption 8.

Document 17

Format: Letter (2 pages, 4 paragraphs)

Date: August 9, 2022

From: James D. LaPierre, Regional Director, FDIC Kansas City Regional Office

To: The board of directors of a bank

Purpose: The letter is part of an ongoing dialogue between the bank and the FDIC in which the FDIC is seeking to obtain information about existing and proposed crypto-asset activities of the bank in order to assess potential safety and soundness and consumer protection risks that may be faced by the bank, specifically, and the banking industry generally, as discussed in a report by the FDIC Office of Inspector General, *FDIC Strategies Related to Crypto-Asset Risks*, Eval-24-01 (Oct. 2023).

Description of Content: The letter relates that the bank notified the FDIC of the bank's intent to offer crypto-asset services to bank customers. The letter describes the technology to be used, the services that will be available to customers, and how bank customers can access those services. The letter further notes discussions between the bank and the FDIC concerning the bank's proposed crypto-asset activities. The letter states that the bank provided updates on the status of implementation and that the bank provided due diligence documents related to the proposed activities. The letter states that the FDIC will seek further information to assist it in reviewing the activity and providing supervisory feedback to the bank. Finally, the letter states that until such review is completed, the FDIC requests that the bank refrain from expanding this service to additional customers.

FOIA Exemption 8: As part of an ongoing close inquiry, inspection, and investigation of the safety and soundness risk and consumer protection risk to the bank from engaging in crypto-asset activities, and because the document itself discusses specific crypto-asset activity engaged in and proposed by the bank, makes a safety and soundness and consumer protection recommendation to the bank, and advises that the FDIC is considering the supervisory implications of the bank's existing and proposed activity, the letter constitutes an examination report for purposes of FOIA Exemption 8.

Document 18

Format: Letter (2 pages, 5 paragraphs, plus a 3-page appendix)

Date: August 26, 2022

From: Frank R. Hughes, Acting Regional Director, FDIC Atlanta Regional Office

To: The board of directors of a bank

Purpose: The letter is part of an ongoing dialogue between the bank and the FDIC in which the FDIC is seeking to obtain information about proposed crypto-asset services of the bank in order to assess potential safety and soundness and consumer protection risks that may be faced by the bank, specifically, and the banking industry generally, as discussed in a report by the FDIC Office of Inspector General, *FDIC Strategies Related to Crypto-Asset Risks*, Eval-24-01 (Oct. 2023).

Description of Content: The letter relates that the bank notified the FDIC of the bank's intent to offer crypto-asset services to bank customers. The letter describes the technology to be used, the services that will be available to customers, and how bank customers can access those services. The letter states that the FDIC is reviewing the information provided and assessing the proposed crypto-asset activities as they relate to the bank's business plan. The letter requests that the bank provide the documentation listed in the appendix to the letter, and the FDIC will review the documentation to assess the safety and soundness, consumer protection, and financial stability implications of those activities, and notes that a safety and soundness examination of the bank will soon begin. Finally, the letter states that until its review is completed, the FDIC requests that the bank refrain from providing this service to its customers.

FOIA Exemption 8: As part of an ongoing close inquiry, inspection, and investigation of the safety and soundness risk and consumer protection risk to the bank from engaging in crypto-asset activities, and because the document itself discusses specific crypto-asset services proposed by the bank, makes a safety and soundness and consumer protection recommendation to the bank, and advises that the FDIC is considering the supervisory implications of the bank's proposed services, the letter constitutes an examination report for purposes of FOIA Exemption 8.

Document 19

Format: Letter (1 page, 3 paragraphs, plus a 1-page list of document requests)

Date: September 9, 2022

From: Gregory P. Bottone, Regional Director, FDIC Chicago Regional Office

To: The board of directors of a bank

Purpose: The letter is part of an ongoing dialogue between the bank and the FDIC in which the FDIC is seeking to obtain information about a proposed crypto-asset service of the bank in order to assess potential safety and soundness and consumer protection risks that may be faced by the bank, specifically, and the banking industry generally, as discussed in a report by the FDIC Office of Inspector General, *FDIC Strategies Related to Crypto-Asset Risks*, Eval-24-01 (Oct. 2023).

Description of Content: The letter relates that the bank notified the FDIC of the bank's intent to offer crypto-asset services to bank customers. The letter describes the services that will be available to customers. The letter further notes discussions between the bank and the FDIC concerning the bank's proposed crypto-asset activities. The letter states that the FDIC asks insured depository institutions to provide sufficient information for the FDIC to assess the safety and soundness, consumer protection, and financial stability implications of crypto-asset activities, and asks the bank to provide the information requested in the list attached to the letter. Finally, the letter states that until such review is completed, the FDIC requests that the bank not proceed with planned activities pending FDIC supervisory feedback.

FOIA Exemption 8: As part of an ongoing close inquiry, inspection, and investigation of the safety and soundness risk and consumer protection risk to the bank from engaging in crypto-asset activities, and because the document itself discusses a specific crypto-asset service proposed by the bank, makes a safety and soundness and consumer protection recommendation to the bank, and advises that the FDIC is considering the supervisory implications of the bank's proposed service, the letter constitutes an examination report for purposes of FOIA Exemption 8.

Document 20

Format: Letter (2 pages, 3 paragraphs, plus a 1-page list of document requests)

Date: September 13, 2022

From: John F. Vogel, Acting Regional Director, FDIC Atlanta Regional Office

To: The board of directors of a bank

Purpose: The letter is part of an ongoing dialogue between the bank and the FDIC in which the FDIC is seeking to obtain information about a proposed crypto-asset service of the bank in order to assess potential safety and soundness and consumer protection risks that may be faced by the bank, specifically, and the banking

industry generally, as discussed in a report by the FDIC Office of Inspector General, *FDIC Strategies Related to Crypto-Asset Risks*, Eval-24-01 (Oct. 2023).

Description of Content: The letter relates that the bank notified the FDIC of the bank's intent to offer crypto-asset services to bank customers. The letter describes the services that will be available to customers, and how bank customers can access those services. The letter states that the FDIC asks insured depository institutions to provide sufficient information for the FDIC to assess the safety and soundness, consumer protection, and financial stability implications of crypto-asset activities, and asks the bank to provide the information requested in the list attached to the letter. Finally, the letter states that until its review is completed, the FDIC requests that the bank refrain from providing these services to its customers.

FOIA Exemption 8: As part of an ongoing close inquiry, inspection, and investigation of the safety and soundness risk and consumer protection risk to the bank from engaging in crypto-asset activities, and because the document itself discusses a specific crypto-asset service proposed by the bank, makes a safety and soundness and consumer protection recommendation to the bank, and advises that the FDIC is considering the supervisory implications of the bank's proposed service, the letter constitutes an examination report for purposes of FOIA Exemption 8.

Document 21

Format: Letter (2 pages, 3 paragraphs, plus a 2-page list of document requests)

Date: September 14, 2022

From: Kristie K. Elmquist, Regional Director, FDIC Dallas Regional Office

To: The board of directors of a bank

Purpose: The letter is part of an ongoing dialogue between the bank and the FDIC in which the FDIC is seeking to obtain information about a proposed crypto-asset service of the bank in order to assess potential safety and soundness and consumer protection risks that may be faced by the bank, specifically, and the banking industry generally, as discussed in a report by the FDIC Office of Inspector General, *FDIC Strategies Related to Crypto-Asset Risks*, Eval-24-01 (Oct. 2023).

Description of Content: The letter relates that the bank notified the FDIC of the bank's intent to offer crypto-asset services to bank customers. The letter describes the services that will be available to customers, and how bank customers can access those services. The letter states that the FDIC asks insured depository institutions to provide sufficient information for the FDIC to assess the safety and soundness, consumer protection, and financial stability implications of crypto-asset activities, and asks the bank to provide the information requested in the list attached to the

letter. Finally, the letter states that until its review is completed, the FDIC requests that the bank refrain from providing this service to its customers.

FOIA Exemption 8: As part of an ongoing close inquiry, inspection, and investigation of the safety and soundness risk and consumer protection risk to the bank from engaging in crypto-asset activities, and because the document itself discusses a specific crypto-asset service proposed by the bank, makes a safety and soundness and consumer protection recommendation to the bank, and advises that the FDIC is considering the supervisory implications of the bank's proposed service, the letter constitutes an examination report for purposes of FOIA Exemption 8.

Document 22

Format: Letter (2 pages, 4 paragraphs and a document request list)

Date: October 17, 2022

From: Kathy L. Moe, Regional Director, FDIC San Francisco Regional Office

To: The board of directors of a bank

Purpose: The letter is part of an ongoing dialogue between the bank and the FDIC in which the FDIC is seeking to obtain information about existing crypto-asset practices of the bank in order to assess potential safety and soundness and consumer protection risks that may be faced by the bank, specifically, and the banking industry generally, as discussed in a report by the FDIC Office of Inspector General, *FDIC Strategies Related to Crypto-Asset Risks*, Eval-24-01 (Oct. 2023).

Description of Content: The letter relates that the bank notified the FDIC and the state banking regulator of the bank's crypto-asset activities. The letter relays the bank's current position on offering crypto-asset products or crypto-asset services to bank customers and the bank's crypto-asset transactions. The letter states that the FDIC and state regulator determined that additional information is needed from the bank. The letter states that the FDIC asks insured depository institutions to provide sufficient information for the FDIC to assess the safety and soundness, consumer protection, and financial stability implications of crypto-asset activities, and asks the bank to provide the information requested in the list in the letter. Finally, the letter states that until its review is completed, the FDIC requests that the bank refrain from additional crypto-asset purchases.

FOIA Exemption 8: As part of an ongoing close inquiry, inspection, and investigation of the safety and soundness risk and consumer protection risk to the bank from engaging in crypto-asset activities, and because the document itself discusses a specific crypto-asset practice engaged in by the bank, makes a safety and soundness and consumer protection recommendation to the bank, and advises that

the FDIC is considering the supervisory implications of the bank's practice, the letter constitutes an examination report for purposes of FOIA Exemption 8.

Document 23

Format: Letter (2 pages, 5 paragraphs)

Date: October 21, 2022

From: Kathy L. Moe, Regional Director, FDIC San Francisco Regional Office

To: The board of directors of a bank

Purpose: The letter is part of an ongoing dialogue between the bank and the FDIC in which the FDIC is seeking to obtain information about a proposed crypto-asset service of the bank in order to assess potential safety and soundness and consumer protection risks that may be faced by the bank, specifically, and the banking industry generally, as discussed in a report by the FDIC Office of Inspector General, *FDIC Strategies Related to Crypto-Asset Risks*, Eval-24-01 (Oct. 2023).

Description of Content: The letter relates that the bank notified the FDIC of the bank's intent to offer crypto-asset services to bank customers. The letter describes the services that will be available to customers, how bank customers can access those services, the structure and agreements with service providers, implementation timeline, and other plans. The letter states that subsequently, the bank provided additional information and project status. The letter states that the FDIC asks insured depository institutions to provide sufficient information for the FDIC to assess the safety and soundness, consumer protection, and financial stability implications of crypto-asset activities, that the FDIC submitted a list of requested information to the bank, and that there was a bank examination in progress at the time of the letter. Finally, the letter states that until its review is completed, the FDIC requests that the bank refrain from providing this service to its customers.

FOIA Exemption 8: As part of an ongoing close inquiry, inspection, and investigation of the safety and soundness risk and consumer protection risk to the bank from engaging in crypto-asset activities, and because the document itself discusses a specific crypto-asset service proposed by the bank, makes a safety and soundness and consumer protection recommendation to the bank, and advises that the FDIC is considering the supervisory implications of the bank's proposed service, the letter constitutes an examination report for purposes of FOIA Exemption 8.