



KATHY HOCHUL
Governor

ADRIENNE A. HARRIS
Superintendent

SENT VIA EMAIL

Email: G@xny.io

February 21, 2024

Mr. Gunnar Larson
xNY.io – Bank.org
406 West 25th Street
New York, NY 10001

Re: Freedom of Information Law (“FOIL”) Tracking No. 2023-095358

Dear Mr. Larson,

I write in response to the FOIL request that you submitted to the New York State Department of Financial Services (“Department”), which has been assigned the above-referenced tracking number and reads as follows:

Dear Madam or Sir: On August 2, 2022 the Superintendent of Financial Services Adrienne A. Harris announced that Robinhood Crypto, LLC (“RHC”) would pay a \$30 million penalty to New York State for significant failures in the areas of bank secrecy act/anti-money laundering (“BSA/AML”) obligations and cybersecurity that resulted in violations of the Department’s Virtual Currency Regulation (23 NYCRR Part 200), Money Transmitter Regulation (3 NYCRR Part 417), Transaction Monitoring Regulation (23 NYCRR Part 504), and Cybersecurity Regulation (23 NYCRR Part 500). xNY.io - Bank.org would like to

1. receive any and all records related to NY-DFS' investigation of Robinhood Crypto. Including (but not limited to) records concerning the bespoke Supervisory Agreement Robinhood Crypto has with the Department of Financial Services mentioned here: https://www.dfs.ny.gov/reports_and_publications/press_releases/pr202208021.
2. In addition, xNY.io - Bank.org seeks any and all records concerning New York's approach to Robinhood Crypto and Goldman Sachs compliance programs mandated by the United States Department of Justice, Criminal Division, Fraud Section and Money Laundering and Asset Recovery Section mentioned here: https://drive.google.com/file/d/1Yx88RMoeLyyfbNKORtPI4r-m8N21_1Sp/view?usp=drivesdk.
3. Finally, xNY.io - Bank.org seeks records concerning New York's regulatory approval of Robinhood Crypto engaging a fine of \$30M to implement heightened controls and additional procedures and policies relating to electronic surveillance and investigation, due diligence on transactions or clients and the use of third-party intermediaries across business units; and enhancing anti-corruption training for all management and relevant employees.

To the extent the request is reasonably described, the Department construes the request as seeking the records, correspondence, and work product exchanged between Robinhood and the Department in accordance with the Department’s August 1, 2022 Consent Order (“responsive records”).

The records that you seek relate to an ongoing Department investigation. Accordingly, your request is denied pursuant to Public Officers Law § 87(2)(e)(i) (the “law enforcement exemption”), which exempts from disclosure records

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that are compiled for law enforcement purposes and that, if disclosed, would interfere with law enforcement investigations. The purpose behind the law enforcement exemption is to protect an agency's investigative process from being compromised by revealing the scope and nature of an agency's investigation before an investigation is complete. See Matter of Pittari v. Pirro, 258 A.D.2d 202 (2d Dep't 1999). It also bears noting that the law enforcement exemption applies to both civil and criminal investigatory files. See Madeiras v. Dep't of Educ., 30 N.Y.3d 67 (2017). In this instance, releasing the requested records would interfere with the Department's investigative process. Thus, the Department is not disclosing the records that you request pursuant to Public Officers Law § 87(2)(e)(i).

Moreover, in addition to withholding the responsive records pursuant to Public Officers Law § 87(2)(e)(i), the Department also is withholding the responsive records pursuant to Public Officers Law § 87(2)(a), which specifically exempts from disclosure records exempted by a state or federal statute. The applicable statutory provision is N.Y. Banking Law ("Banking Law") § 36(10), which states, in pertinent part, that reports of examinations and investigations and correspondence and memoranda concerning or arising out of such examinations and investigations are confidential and shall not be made public. The statute fosters open communication between the Department and its regulated institutions, a necessity for effective regulation of financial institutions, by ensuring that records transmitted to the Department in connection with its supervision of a financial institution are protected from disclosure.

The responsive records that were transmitted between Robinhood and the Department in connection with the Department's supervision of Robinhood as a licensed money transmitter pursuant to New York Banking Law, constitute correspondence and reports concerning and arising out of an investigation and are, therefore, required to be kept confidential and exempt from disclosure under Banking Law § 36(10). The expectation that records transmitted to the Department will remain confidential is essential to encouraging candor and open communications between the Department, its regulated entities, and the entities undergoing regulatory review that submit such records. Release of such sensitive records, albeit responsive records, may have a chilling effect on the willingness of regulated entities to share information and cooperate with supervisors to resolve issues, and thus confidentiality is critical to the Department's ability to perform its regulatory mandate and purpose. Accordingly, the exemption set forth in Public Officers Law § 87(2)(a) via Banking Law § 36(10) covers the responsive records.

In accordance with Public Officers Law § 89(4), you may appeal this determination to withhold the records within 30 days by sending an email to FOIL.Appeals@dfs.ny.gov.

Very truly yours,



Stephanie Mazza
Associate Attorney