

March 22, 2023

Martin Gruenberg
Chairman
Federal Deposit Insurance Corporation
550 17th St. N.W.
Washington, D.C. 20429

Rohit Chopra
Director
Consumer Financial Protection Bureau
1700 G St. N.W.
Washington, D.C. 20552

Dear Chairman Gruenberg and Director Chopra,

We write today regarding new evidence of deception and other illegal practices by SoFi Bank (SoFi), a Federal Deposit Insurance Corporation (FDIC) member bank holding company with assets well over the \$10 billion threshold for Consumer Financial Protection Bureau (CFPB) regulation, supervision, and enforcement.¹ This is a last-ditch effort by a failing financial technology (FinTech) company to prey on depositors' confusion amid a global banking crisis. Your agencies must take immediate action to protect depositors.

This morning, SoFi announced the release of a cash management product dubbed the "SoFi FDIC Insurance Network" by which it would afford its users "the opportunity to get FDIC insurance up to \$2 million on all bank balances,"² an amount eight times larger than the standard \$250,000 statutory limit for FDIC insurance for individual accounts. To execute this scheme, SoFi represents that it "offers access" to a financial product that does not exist, prominently misrepresents the extent of deposit insurance offered by SoFi to SoFi depositors, and misuses the FDIC's name and logo in the process.³

SoFi acknowledges on its own website that this offering is just a simple cash sweep product, similar to those available from competitors for decades.⁴ SoFi's real innovation is in its deceptive marketing scheme, which obscures the true nature of the financial service offered by the company and trades on the good will of the FDIC. For example, while this scheme simply spreads depositors' funds across an undisclosed and unspecified number of "specifically

¹ <https://www.macrotrends.net/stocks/charts/SOFI/sofi-technologies/total-assets>

² <https://www.sofi.com/blog/sofi-increase-fdic-insurance/>

³ <https://twitter.com/SoFi/status/1638526652337512450>

⁴ <https://www.intrafi.com/about-us/the-company/>

identified FDIC insured partner banks” that insure deposits up to the existing \$250,000 limit, SoFi represents to customers that it charges no fees “to increase FDIC insurance coverage” and that “increasing FDIC insurance is the latest way we are providing extra peace of mind for our members.”⁵

Figure 1: Marketing surrounding the announcement of the “SoFi FDIC Insurance Network” prominently features the FDIC’s name and logo.⁶



The net impression a reasonable consumer is likely to take away is that SoFi is offering a bank account that is subject to a \$2 million guarantee by the FDIC. That is false.

Each of your respective agencies has taken a strong stand against the false or misleading use of the FDIC’s name and logo, which can create the dangerous illusion of trustworthiness and

⁵ <https://www.sofi.com/blog/sofi-increase-fdic-insurance/>

⁶ <https://twitter.com/SoFi/status/1638526652337512450>



stability for a given financial product or institution.⁷ Such misrepresentations have been at the center of recent scandals such as the implosion of the crypto exchange FTX,⁸ which used the FDIC logo to deceptively convince users that their cash deposits on the platform were insured when no such protection existed, as well as among several other notorious FinTech market participants.⁹

In this case, SoFi's false impression raises two major concerns. First, in its social media and marketing materials, SoFi knowingly obscures the true nature of this scheme by misusing the FDIC logo, obscuring the fact that SoFi is, in fact, serving as a lead generator for multiple banks, and that depositors will be entered into financial relationships with several institutions not of their choosing. Second, it provides SoFi with an unfair advantage over honest banks that truthfully advertise the existing \$250,000 limit on FDIC deposit insurance. For these reasons, this marketing scheme is deceptive, in violation of the prohibition on deceptive acts and practices under the Consumer Financial Protection Act, and makes knowing misrepresentations about the extent or manner of deposit insurance provided to any deposits, in violation of the Federal Deposit Insurance Act.¹⁰

More generally, today's events raise questions about whether SoFi is committed to the level of compliance and risk management expected of publicly traded, nationally chartered banks. SoFi already has a tarnished track record with regard to violations of federal prohibitions on deceptive practices, having settled with the Federal Trade Commission (FTC) in 2019 after the agency alleged that the company had lied about the savings available through its refinancing products.¹¹ The FTC noted in its settlement agreement that in "television, print, and internet advertisements," SoFi had "inflated the actual savings" borrowers had historically attained via refinancing—"sometimes even doubling it"—by misleadingly leaving "large categories of consumers" out of their calculations.¹²

That SoFi might have taken the reckless step of misusing the FDIC's logo against this backdrop calls into question CEO Anthony Noto's ability to successfully manage the company, or, perhaps

⁷ <https://www.fdic.gov/news/financial-institution-letters/2022/fil22021.html>,
<https://www.consumerfinance.gov/compliance/circulars/circular-2022-02-deception-representations-involving-the-fdics-name-or-logo-or-deposit-insurance/>

⁸ <https://www.fdic.gov/news/press-releases/2022/ftx-harrison-letter.pdf>

⁹ See, e.g., <https://www.protocol.com/newsletters/protocol-fintech/fdic-crypto-banks>,
<https://www.fdic.gov/resources/regulations/laws/section-18a4-of-fdi-act/letters/2023-02-15-romero.pdf>,
<https://www.bankingdive.com/news/fdic-orders-ftx-4-other-crypto-firms-to-halt-false-and-misleading-claims/630189/>,
<https://www.fdic.gov/news/press-releases/2022/cryptosec-info-letter.pdf>,
<https://www.fdic.gov/news/press-releases/2022/cryptonews-letter.pdf>,
<https://www.fdic.gov/news/press-releases/2022/smart-asset-letter.pdf>,
<https://www.fdic.gov/news/press-releases/2022/fdic-crypto-com-letter.pdf>

¹⁰ 12 U.S.C. 5531; 12 U.S.C. 1828(a)(4)

¹¹ <https://www.ftc.gov/news-events/news/press-releases/2019/02/ftc-approves-final-order-sofi>

¹² Id.



even worse, that SoFi executives may be resorting to lawbreaking in an effort to save a sinking ship. SoFi has faced net losses of over \$1 billion since 2020, leading the company's stock to fall more than 80 percent from pandemic-era highs.¹³ Moreover, SoFi recently filed a frivolous lawsuit against the U.S. Department of Education aiming to force the end of the ongoing pause on federal student loan payments,¹⁴ an action that came soon after Noto confessed that this key borrower protection had cut SoFi's student loan refinancing business "in more than half."¹⁵ Without action to hold the company accountable, SoFi may continue lashing out at the public's expense in a last ditch effort to grasp at profitability.

If you have any questions or require any additional information with respect to this matter, please contact Ben Kaufman, Director of Research and Investigations, at ben@protectborrowers.org.

We urge the FDIC and CFPB to exhaustively investigate this matter and protect depositors, the Deposit Insurance Fund, and honest banks from this rogue company's latest scheme.

Sincerely,

Student Borrower Protection Center

¹³ <https://www.macrotrends.net/stocks/charts/SOFI/sofi-technologies/net-income>

¹⁴ <https://www.washingtonpost.com/education/2023/03/06/sofi-student-loan-payment-pause-lawsuit/>

¹⁵ <https://news.yahoo.com/sofi-ceo-student-loan-business-cut-in-half-payment-pause-190121235.html>