

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

FTX TRADING LTD., *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 22-11068 (JTD)

(Jointly Administered)

**Ref No. 578**

**ORDER (A) APPROVING THE COOPERATION AGREEMENT BETWEEN  
THE DEBTORS AND THE JOINT PROVISIONAL LIQUIDATORS OF FTX  
DIGITAL MARKETS LTD., AND (B) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)<sup>2</sup> of FTX Trading Ltd. and its affiliated debtors and debtors-in-possession (collectively, the “Debtors”), for entry of an order (this “Order”) (a) approving the Cooperation Agreement pursuant to sections 105(a) and 363(b) of Bankruptcy Code, and (b) granting related relief; and this Court having jurisdiction to consider the Motion pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and this Court being able to issue a final order consistent with Article III of the United States Constitution; and venue of these Chapter 11 Cases and the Motion in this district being proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this matter being a core proceeding pursuant to 28 U.S.C. § 157(b); and this Court having found that proper and adequate notice of the Motion and the relief requested therein has been provided in accordance with the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and the Local Rules of Bankruptcy Practice and Procedure

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<sup>1</sup> The last four digits of FTX Trading Ltd.’s and Alameda Research LLC’s tax identification number are 3288 and 4063 respectively. Due to the large number of debtor entities in these Chapter 11 Cases, a complete list of the Debtors and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors’ claims and noticing agent at <https://cases.ra.kroll.com/FTX>.

<sup>2</sup> Capitalized terms not otherwise defined herein are to be given the meanings ascribed to them in the Motion.

of the United States Bankruptcy Court for the District of Delaware, and that, except as otherwise ordered herein, no other or further notice is necessary; and objections (if any) to the Motion having been withdrawn, resolved or overruled on the merits; and a hearing (if any) having been held to consider the relief requested in the Motion and upon the record of the hearing and all of the proceedings had before this Court; and this Court having found and determined that the relief set forth in this Order is in the best interests of the Debtors and their estates; and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor;

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth herein.
2. The entry into and performance by the Debtors of their obligations under the Cooperation Agreement annexed as an Exhibit hereto is hereby approved in all respects.
3. The Debtors will use their best efforts to consult with the Committee regarding any proposed agreement or understanding between FTX DM and the Debtors pursuant to the Cooperation Agreement, including sharing on a “professionals eyes only” basis with the Committee information shared between FTX DM and the Debtors (subject to appropriate confidentiality arrangements and approval of the same by the Bahamas Court); *provided that* it shall not be a violation of this Order if the Debtors fail to so consult or share such information.
4. Nothing in the Cooperation Agreement or this Order shall exempt or relieve the Debtors or FTX DM of their obligations to obtain all necessary court approvals required under applicable law for specific actions contemplated under the Cooperation Agreement, from this Court or the Bahamas Court, as applicable.

5. Nothing in the Cooperation Agreement or this Order shall exempt or relieve the Debtors of their obligations or fiduciary duties to any stakeholder under applicable law.

6. Notwithstanding anything in the Cooperation Agreement to the contrary, nothing in this Order authorizes or permits the Debtors to: (a) seal any document or redact any information from any filings in these Chapter 11 Cases; (b) sell any of their property outside the ordinary course of business pursuant to section 363 of the Bankruptcy Code; (c) obtain postpetition financing pursuant to section 364 of the Bankruptcy Code; (d) pay or reimburse fees or expenses of professionals for any parties to the Cooperation Agreement; (e) enter into any settlement or compromise in respect of the ownership of property of any Chapter 11 Debtor that requires approval of this Court under Rule 9019; or (f) implement any joint claims process applicable in the Chapter 11 Cases and the Bahamian Proceeding. The rights of any party-in-interest to object to any such relief, or to any plan of reorganization reflecting any matter contemplated by the Cooperation Agreement, are fully preserved.

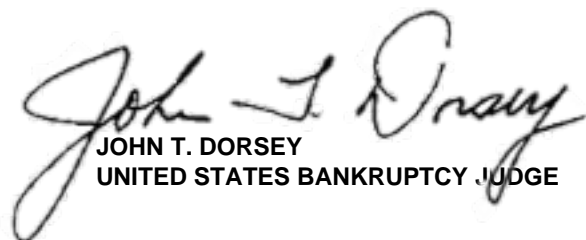
7. Other than the insolvency proceedings expressly contemplated in the Cooperation Agreement, no additional insolvency proceedings shall be subject to the Cooperation Agreement absent further order of this Court.

8. The requirements set forth in Bankruptcy Rule 6004(a) are waived with respect to the Motion.

9. This Order is immediately effective and enforceable, notwithstanding the possible applicability of Bankruptcy Rule 6004(h) or otherwise.

10. This Court shall retain jurisdiction with respect to any matters, claims, rights or disputes arising from or related to the Motion or the implementation of this Order.

Dated: February 9th, 2023  
Wilmington, Delaware

  
JOHN T. DORSEY  
UNITED STATES BANKRUPTCY JUDGE

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

FTX TRADING LTD., *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 22-11068 (JTD)

(Jointly Administered)

**Hearing Date:** February 15, 2023 at 10:00 a.m. (ET)

**Objection Deadline:** February 8, 2023 at 4:00 p.m. (ET)

**MOTION OF DEBTORS FOR ENTRY OF AN ORDER (A) APPROVING  
THE COOPERATION AGREEMENT BETWEEN THE DEBTORS AND  
THE JOINT PROVISIONAL LIQUIDATORS OF FTX DIGITAL  
MARKETS LTD. AND (B) GRANTING RELATED RELIEF**

FTX Trading Ltd. and its affiliated debtors and debtors-in-possession (collectively, the “Debtors”) hereby submit this motion (this “Motion”) for entry of an order, substantially in the form attached hereto as Exhibit A (the “Order”), pursuant to sections 105(a) and 363(b)(1) of title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (the “Bankruptcy Code”) (a) approving the Settlement and Cooperation Agreement, dated as of January 6, 2023 (the “Cooperation Agreement”) attached as an Exhibit to the Order, between the Debtors and the joint provisional liquidators (“JPLs”) appointed in the provisional liquidation proceeding (the “Bahamian Proceeding”) of FTX Digital Markets Ltd. (“FTX DM”) pending before the Supreme Court of The Bahamas (the “Bahamas Court”), and (b) granting related relief. In support of this Motion, the Debtors respectfully state as follows:

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<sup>1</sup> The last four digits of FTX Trading Ltd.’s and Alameda Research LLC’s tax identification number are 3288 and 4063 respectively. Due to the large number of debtor entities in these Chapter 11 Cases, a complete list of the Debtors and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors’ claims and noticing agent at <https://cases.ra.kroll.com/FTX>.

**Background and Facts Specific to the Relief Requested**

**I. The Debtors and Their Chapter 11 Cases**

1. On November 11 and November 14, 2022 (as applicable, the “Petition Date”), the Debtors filed with the Court voluntary petitions for relief under the Bankruptcy Code. The Debtors continue to operate their businesses and manage their properties as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. Joint administration of these Chapter 11 cases (the “Chapter 11 Cases”) was authorized by the Court by entry of an order on November 22, 2022 [D.I. 128]. On December 15, 2022, the Office of the United States Trustee for the District of Delaware (the “U.S. Trustee”) appointed an Official Committee of Unsecured Creditors (the “Committee”) pursuant to section 1102 of the Bankruptcy Code [D.I. 231].

2. Additional factual background relating to the Debtors’ businesses and the commencement of these Chapter 11 Cases is set forth in the *Declaration of John J. Ray III in Support of Chapter 11 Petitions and First Day Pleadings* [D.I. 24], the *Declaration of Edgar W. Mosley II in Support of Chapter 11 Petitions and First Day Pleadings* [D.I. 57], the *Supplemental Declaration of John J. Ray III in Support of First Day Pleadings* [D.I. 92] and the *Supplemental Declaration of Edgar W. Mosley II in Support of First Day Pleadings* [D.I. 93].

**II. FTX DM, the Bahamian Proceeding and the Chapter 15 Case**

3. FTX DM is an International Business Company incorporated in the Commonwealth of The Bahamas on July 22, 2021. FTX DM is a wholly-owned subsidiary of Debtor FTX Trading Ltd..

4. On September 20, 2021, the Securities Commission of The Bahamas (the “Bahamas Commission”) approved FTX DM’s registration to operate as a Digital Asset Service Provider under the Digital Assets and Registered Exchanges Act, 2020 of The Bahamas.

5. On November 10, 2022, after it became clear that the FTX group faced a severe liquidity crisis, the Bahamas Commission filed a petition for provisional liquidation of FTX DM with the Bahamas Court. (*Declaration of James L. Bromley in Support of Debtors' Objection to Emergency Motion (i) for Relief From Automatic Stay and (ii) to Compel Turnover of Electronic Records Under Sections 542, 1519(a)(3), 1521(a)(7) and 1522 of Bankruptcy Code* (the "Bromley Declaration") [D.I. 336] Ex. 2.)

6. On the same day, the Bahamas Court granted such petition and appointed Brian C. Simms KC as provisional liquidator of FTX DM. (*Id.* Ex. 3.) On November 14, 2022, the Bahamas Court appointed Kevin G. Cambridge and Peter Greaves of PricewaterhouseCoopers as additional JPLs, to serve alongside Mr. Simms.

7. On November 16, 2022, the JPLs filed a Chapter 15 petition for recognition of the Bahamian Proceeding in the United States Bankruptcy Court for the Southern District of New York, captioned *In re FTX Digital Markets Ltd. (in Provisional Liquidation)*, No. 22-BK-11516 (MEW), D.I. 1 (the "Chapter 15 Case"). The JPLs sought entry of an order pursuant to Chapter 15 of the Bankruptcy Code to, among other things, recognize the Bahamian Proceeding as a foreign main proceeding pursuant to sections 1502, 1517(a) and (b)(1) of the Bankruptcy Code, and appointing the JPLs as FTX DM foreign representatives pursuant to sections 101(24), 1509 and 1517(a) Bankruptcy Code. *Id.*

8. On November 17, 2022, the Debtors filed an emergency motion to transfer the Chapter 15 Case to this Court for coordinated proceedings with the Chapter 11 Cases [D.I. 22]. On November 22, 2022, the JPLs consented to the transfer of the Chapter 15 Case to this Court, subject to certain limitations and conditions, and this Court entered an order transferring the Chapter 15 Case to this Court on the same day [D.I. 131].

### III. The Cooperation Agreement

9. From the first days of these Chapter 11 Cases, the Debtors and the JPLs have disputed certain facts, conclusions of law and jurisdictional matters concerning FTX DM. Notwithstanding their continued dispute about these matters, the Debtors and the JPLs have worked constructively to develop a mutually acceptable path forward in the near term. On January 6, 2023, after substantial negotiation and discussions, the parties entered into the Cooperation Agreement, which sets out a framework for cooperation and coordination of their activities as fiduciaries for the benefit of their respective creditors. On January 7, 2023, the Debtors and the JPLs filed with this Court a notice of the entry into the Cooperation Agreement [D.I. 402]. The Cooperation Agreement will not become effective unless and until approved by this Court and the Bahamas Court. (*See* Cooperation Agreement preamble.)

10. The Cooperation Agreement reflects the parties' agreement to proceed with parallel proceedings in this Court and the Bahamas Court, and to cooperate and coordinate in so far as possible to accomplish their common goals, which include (a) maximizing recoveries to customers and creditors of each estate, (b) avoiding redundant work, (c) minimizing expenses and (d) respecting the sovereignty of the United States and the Bahamian legal systems. (*See id.* §§ 1 and 2.)

11. The agreement is premised on the idea that the disputes between the Debtors and the JPLs may be best settled by the mutual sharing of information and arm's-length negotiation in connection with a coordinated resolution of the Chapter 11 Cases and the Bahamian Proceeding. The Debtors and the JPLs have agreed that one of the alternatives to consider jointly is the reorganization of the FTX.com exchange (the "International Platform"), to the extent such reorganization can be implemented in a manner that is in the best interests of both estates.



12. Neither the Debtors nor the JPLs have made any commitment in connection with a potential reorganization of the International Exchange, except for the general procedural undertakings reflected in the Cooperation Agreement.

13. The following is an overview of certain key terms of the Cooperation Agreement:<sup>2</sup>

- (a) Conditional and Reciprocal Recognition: The parties agreed that (i) recognition of the Bahamian Proceeding in the Chapter 15 Case shall be subject to, and effective only upon, the entry of orders providing analogous relief to the Chapter 11 Debtors in The Bahamas in form and substance reasonably satisfactory to the Chapter 11 Debtors and (ii) recognition of these Chapter 11 Cases in The Bahamas shall be subject to, and effective only upon, the entry of a Chapter 15 recognition order in the Chapter 15 Case in form and substance reasonably satisfactory to FTX DM (*See id.* §§12–13).
- (b) Primary Recovery Functions: The parties have allocated primary responsibility for recovering value from certain assets. (*See id.* §§ 4 and 5.) For example, FTX DM will be primarily responsible for recovering value from (i) assets in its name, (ii) \$45 million of USDT currently frozen in The Bahamas, (iii) its sale or reorganization, (iv) claims belonging to it, (v) its intercompany claims against the Debtors and (vi) the sale of any businesses or investments in its name. On the other hand, the Debtors will be primarily responsible for recovering value from all assets and property not allocated to FTX DM.
- (c) Monetization of the International Platform: The Parties agreed to work together in good faith during the next six months to develop alternatives for the reorganization or monetization of the International Platform and cryptocurrency associated with it. (*See id.* § 6.)
- (d) Arrangements Regarding FTX Property Holdings Ltd. (“PropCo”): The parties agreed to commence a joint marketing process for the properties owned by PropCo and that either (i) a liquidation proceeding with respect to PropCo will be opened in The Bahamas to run concurrently with the pending Chapter 11 case of PropCo or (ii) the parties will determine another mutually acceptable arrangement for the judicial approval of the sale of the applicable properties by this Court and by an appropriate court in The Bahamas. The JPLs agreed to dismiss with prejudice their motion to dismiss the Chapter 11 case of Propco [D.I. 213]. In light of the

<sup>2</sup> This overview is qualified in its entirety by reference to the terms of the Cooperation Agreement annexed to the Order as Exhibit 1.

physical location of the applicable properties in The Bahamas, the JPLs will take the lead in managing the properties, determining monetization strategy and conducting the marketing process, provided that the monetization strategy and any dispositions will be subject to the approval by the Debtors. (*See* Cooperation Agreement § 15.)) Any asset dispositions will be subject to the approval of this Court pursuant to Section 363(b) of the Bankruptcy Code and by an appropriate court in The Bahamas pursuant to Bahamian law. Each party's reasonable and documented costs and expenses with respect to PropCo will be disclosed to all interested parties and charged to PropCo and paid or reserved for at sale from first available net sale proceeds. (*See id.* § 17.)

- (e) Court-to-Court Communication Procedures: The Parties agreed to propose procedures for court-to-court communication based on international best practices and that are acceptable to this Court and The Bahamas Court. (*See id.* § 18.)
- (f) Information Sharing: The parties agreed to share (i) information in their possession concerning matters contemplated by the Cooperation Agreement subject to satisfactory confidentiality arrangements and (ii) copies of pleadings filed in the Chapter 11 Cases and the Bahamian Proceeding. (*See id.* § 22.)

14. Except with respect to the arrangements relating to PropCo described above, the Cooperation Agreement does not include any consent by the Debtors or the JPLs to have any particular issue heard in any particular court, or to concurrent jurisdiction. The parties reserved their rights to seek a determination by this Court or the Bahamas Court of any matter at any time, subject to certain limited advance notice and consultation obligations. (*See id.* ¶ 23.) Nor does the Cooperation Agreement modify or impair any right of the parties except as expressly provided in the Cooperation Agreement. (*See id.* ¶ 24.)

### **Jurisdiction**

15. The Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper in the Court pursuant to 28 U.S.C. §§ 1408 and

1409. The statutory predicates for the relief requested herein are sections 105(a) and 363(b) of the Bankruptcy Code and Local Rule 9029-2. Pursuant to Local Rule 9013-1(f), the Debtors consent to the entry of a final order or judgment by the Court in connection with this Motion to the extent it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution.

**Relief Requested**

16. By this Motion, the Debtors request entry of the Order, substantially in the form attached hereto as Exhibit A, (a) approving the Cooperation Agreement, and (b) granting certain related relief.

**Basis for Relief**

17. The requested relief is authorized under section 363(b)(1) of the Bankruptcy Code, which provides, in relevant part, that “[t]he trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate.” 11 U.S.C. § 363(b)(1). For a court to approve the use, sale, or lease of estate property under section 363(b) of the Bankruptcy Code the debtor must “articulate some business justification, other than mere appeasement of major creditors . . . .” *In re Ionosphere Clubs, Inc.*, 98 B.R. 174, 175 (Bankr. S.D.N.Y. 1989). “Where the debtor articulates a reasonable basis for its business decisions (as distinct from a decision made arbitrarily or capriciously), courts will generally not entertain objections to the debtor’s conduct.” *In re Johns-Manville Corp.*, 60 B.R. 612, 616 (Bankr. S.D.N.Y. 1986) (citation omitted).

18. Once a debtor articulates a valid business justification for the proposed transaction, significant weight is given to the debtor’s business judgment. “The business judgment rule ‘is a presumption that in making a business decision the directors of a corporation acted on an informed basis, in good faith and in the honest belief that the action was in the best

interests of the company.” In *re Integrated Resources, Inc.*, 147 B.R. 650, 656 (S.D.N.Y. 1992) (quoting *Smith v. Van Gorkom*, 488 A.2d 858, 872 (Del. 1985)). Courts apply the business judgment rule within the context of a Chapter 11 case to shield a debtor’s management from judicial second-guessing. *Id.*

19. Here, the relief requested in this Motion represents a sound exercise of the Debtors’ business judgment because it establishes a cooperative framework with the JPLs that is reasonably intended to maximize recoveries to customers and creditors of the Debtors’ estates, avoid redundant work and minimize expense.

20. Further, the Cooperation Agreement does not impair any material right or obligation of the parties, this Court or the Bahamas Court or divest or diminish the independent jurisdiction of this Court over the Chapter 11 Cases. In particular, nothing in the Cooperation Agreement, (a) requires this Court to take any action inconsistent with the laws of the United States, (b) requires the Debtors or any estate professionals to take any action, or refrain from taking any action, that would result in a breach of duty imposed on them by applicable law, (c) authorizes any action that otherwise requires the specific approval of this Court, except to the extent such action is specifically provided for in the Cooperation Agreement as approved by this Court, (d) commits either the Debtors or the JPLs to concurrent proceedings (except in the limited case of PropCo.) or (e) precludes the Debtors or any party in interest from asserting such party’s substantive rights under the applicable laws.

21. The requested relief also is authorized under the Court’s equitable powers codified in section 105(a) of the Bankruptcy Code. Pursuant to that section this Court “may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions” of the Bankruptcy Code. 11 U.S.C. § 105(a); *see also U.S. v. Energy Resources Co.*, 495 U.S.

545, 549 (1990); *In re Continental Airlines*, 203 F.3d 203, 211 (3d Cir. 2000) (“Section 105(a) of the Bankruptcy Code supplements courts’ specifically enumerated bankruptcy powers by authorizing orders necessary or appropriate to carry out provisions of the Bankruptcy Code.”). “The basic purpose of section 105 is to assure the bankruptcy courts power to take whatever action is appropriate or necessary in aid of the exercise of their jurisdiction.” COLLIER ON BANKRUPTCY, ¶ 105.01, at 6 (Alan R. Resnick & Henry J. Sommer eds., 16th ed.). Approving the Cooperation Agreement pursuant to section 105(a) is appropriate here because approval promotes the efficient and effective administration of these Chapter 11 Cases with the Bahamian Proceeding as parallel insolvency proceedings.

22. A number of courts, in this District and elsewhere, have authorized similar protocols or guidelines for managing cross-border insolvency proceedings. *See, e.g., In re DCL Holdings (USA), Inc.*, No. 22-11319 (JKS) (Dec. 12, 2022), D.I. 58; *In re Three Arrows Capital, Ltd.*, No. 22-10920 (Bankr. S.D.N.Y. Dec. 6, 2022), D.I. 72; *In re LATAM Airlines Group S.A.*, No. 20-11254 (JLG) (Bankr. S.D.N.Y. Sept. 1, 2020), D.I. 978; *In re Toys “R” Us, Inc.*, No. 17-34665 (KLP) (Bankr. E.D. Va. Oct. 25, 2017), D.I. 725; *In re BPS US Holdings Inc.*, No. 16-12373 (KJC) (Nov. 29, 2016), D.I. 220; *In re Trident Microsystems, Inc.*, No. 12-10069 (CSS) (Jan. 25, 2012), D.I. No. 107; *In re Graceway Pharmaceuticals, LLC*, No. 11-13036 (PJW) (Oct. 25, 2011), D.I. 132; *In re Trident Resources Corp.*, No. 09-13150 (MFW) (Apr. 6, 2010), D.I. 33; *In re AbitibiBowater Inc.*, No. 09-11296 (KJC) (July 27, 2009), D.I. 760; *In re Eddie Bauer Holdings, Inc.*, No. 09-12099 (MFW) (July 7, 2009), D.I. 308; *In re Nortel Networks Inc.*, No. 09-10138 (KG) (June 29, 2009), D.I. 990; *In re Indalex Holdings Finance, Inc.*, No. 09-10982 (PJW) (May 11, 2009), D.I. 266; *In re Smurfit-Stone Container Corporation*, No. 09-10235

(BLS) (March 12, 2009), D.I. 528. Accordingly, the Debtors submit that there is ample authority and precedent for approving the Cooperation Agreement.

23. For the foregoing reasons, and the supporting authority found in sections 105(a) and 363(b) of the Bankruptcy Code, the Debtors submit that, in their informed business judgment, the approval of the Cooperation Agreement is (a) appropriate to promote the efficient and effective administration of these Chapter 11 Cases with the Bahamian Proceeding and (b) in the best interests of the estates and should be granted.

#### **Reservation of Rights**

24. Nothing in this Motion: (a) is intended or shall be deemed to constitute an assumption of any agreement pursuant to section 365 of the Bankruptcy Code or an admission as to the validity of any claim against the Debtors or their estates; (b) shall impair, prejudice, waive, or otherwise affect the rights of the Debtors or their estates to contest the validity, priority, or amount of any claim against the Debtors or their estates; (c) shall impair, prejudice, waive, or otherwise affect the rights of the Debtors or their estates with respect to any and all claims or causes of action against any third party or (d) shall be construed as a promise to pay a claim or continue any applicable program postpetition, which decision shall be in the discretion of the Debtors. Any payment made pursuant to an order of the Court granting the relief requested herein is not intended to be nor should it be construed as an admission as to the validity of any claim or a waiver of the Debtors' rights to subsequently dispute such claim.

#### **Notice**

25. Notice of this Motion has been provided to: (a) the U.S. Trustee; (b) counsel to the Committee; (c) the Securities and Exchange Commission; (d) the Internal Revenue Service; (e) the United States Department of Justice; (f) the United States Attorney for the District of Delaware; (g) the JPLs; (h) counsel for the JPLs; (i) the Bahamas Commission;

and (j) to the extent not listed herein, those parties requesting notice pursuant to rule 2002 of the Federal Rules of Bankruptcy Procedure. The Debtors submit that, in light of the nature of the relief requested, no other or further notice need be provided.

**Conclusion**

WHEREFORE, for the reasons set forth herein, the Debtors respectfully request that the Court (a) enter the Order, substantially in the form attached hereto as Exhibit A, and (b) grant such other and further relief as is just and proper.

Dated: January 25, 2023  
Wilmington, Delaware

**LANDIS RATH & COBB LLP**

/s/ Kimberly A. Brown  
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*Counsel for the Debtors  
and Debtors-in-Possession*

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

FTX TRADING LTD., *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 22-11068 (JTD)

(Jointly Administered)

**Hearing Date: February 15, 2023 at 10:00 a.m. (ET)**

**Objection Deadline: February 8, 2023 at 4:00 p.m. (ET)**

**NOTICE OF MOTION**

TO: (a) the U.S. Trustee; (b) counsel to the Committee; (c) the Securities and Exchange Commission; (d) the Internal Revenue Service; (e) the United States Department of Justice; (f) the United States Attorney for the District of Delaware; (g) the JPLs; (h) counsel for the JPLs; (i) the Bahamas Commission; and (j) to the extent not listed herein, those parties requesting notice pursuant to rule 2002 of the Federal Rules of Bankruptcy Procedure.

On January 25, 2023, the above-captioned debtors and debtors-in-possession (collectively, the “Debtors”) filed the *Motion of Debtors for Entry of an Order (A) Approving the Cooperation Agreement Between the Debtors and the Joint Provisional Liquidators of FTX Digital Markets Ltd. and (B) Granting Related Relief* (the “Motion”).

Objections, if any, to the relief requested in the Motion must be filed with the United States Bankruptcy Court, 824 North Market Street, 3<sup>rd</sup> Floor, Wilmington, Delaware 19801, on or before **February 8, 2023 at 4:00 p.m. (ET)**.

At the same time, you must also serve a copy of the objection upon the undersigned counsel so as to be **received no later than 4:00 p.m. (ET) on February 8, 2023**.

A HEARING ON THE MOTION WILL BE HELD ON **FEBRUARY 15, 2023 AT 10:00 A.M. (ET)** BEFORE THE HONORABLE JOHN T. DORSEY, UNITED STATES BANKRUPTCY COURT JUDGE, IN THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE, 824 NORTH MARKET STREET, 5<sup>th</sup> FLOOR, COURTROOM NO. 5, WILMINGTON, DELAWARE 19801.

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IF YOU FAIL TO RESPOND IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF REQUESTED IN THE MOTION WITHOUT FURTHER NOTICE OR HEARING.

Dated: January 25, 2023  
Wilmington, Delaware

**LANDIS RATH & COBB LLP**

/s/ Kimberly A. Brown

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-and-

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*Counsel for the Debtors  
and Debtors-in-Possession*

**EXHIBIT A**

**Proposed Order**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

FTX TRADING LTD., *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 22-11068 (JTD)

(Jointly Administered)

Ref No. \_\_

**ORDER (A) APPROVING THE COOPERATION AGREEMENT BETWEEN  
THE DEBTORS AND THE JOINT PROVISIONAL LIQUIDATORS OF FTX  
DIGITAL MARKETS LTD., AND (B) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)<sup>2</sup> of FTX Trading Ltd. and its affiliated debtors and debtors-in-possession (collectively, the “Debtors”), for entry of an order (this “Order”)

(a) approving the Cooperation Agreement pursuant to sections 105(a) and 363(b) of Bankruptcy Code, and (b) granting related relief; and this Court having jurisdiction to consider the Motion pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and this Court being able to issue a final order consistent with Article III of the United States Constitution; and venue of these Chapter 11 Cases and the Motion in this district being proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this matter being a core proceeding pursuant to 28 U.S.C. § 157(b); and this Court having found that proper and adequate notice of the Motion and the relief requested therein has been provided in accordance with the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and the Local Rules of Bankruptcy Practice and Procedure

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<sup>1</sup> The last four digits of FTX Trading Ltd.’s and Alameda Research LLC’s tax identification number are 3288 and 4063 respectively. Due to the large number of debtor entities in these Chapter 11 Cases, a complete list of the Debtors and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors’ claims and noticing agent at <https://cases.ra.kroll.com/FTX>.

<sup>2</sup> Capitalized terms not otherwise defined herein are to be given the meanings ascribed to them in the Motion.

of the United States Bankruptcy Court for the District of Delaware, and that, except as otherwise ordered herein, no other or further notice is necessary; and objections (if any) to the Motion having been withdrawn, resolved or overruled on the merits; and a hearing (if any) having been held to consider the relief requested in the Motion and upon the record of the hearing and all of the proceedings had before this Court; and this Court having found and determined that the relief set forth in this Order is in the best interests of the Debtors and their estates; and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor;

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth herein.
2. The entry into and performance by the Debtors of their obligations under the Cooperation Agreement annexed an Exhibit hereto is hereby approved in all respects.
3. Other than the insolvency proceedings expressly contemplated in the Cooperation Agreement, no additional insolvency proceedings shall be subject to the Cooperation Agreement absent further order of this Court.
4. The requirements set forth in Bankruptcy Rule 6004(a) are waived.
5. This Order is immediately effective and enforceable, notwithstanding the possible applicability of Bankruptcy Rule 6004(h) or otherwise.
6. This Court shall retain jurisdiction with respect to any matters, claims, rights or disputes arising from or related to the Motion or the implementation of this Order.

Dated: \_\_\_\_\_  
Wilmington, Delaware

\_\_\_\_\_  
The Honorable John T. Dorsey  
United States Bankruptcy Judge

**EXHIBIT**

**Cooperation Agreement**

### Settlement and Cooperation Agreement

This Settlement and Cooperation Agreement, dated January 6, 2023 (this “*Agreement*”), between the Chapter 11 Debtors, as debtors and debtors in possession (the “*Chapter 11 Debtors*”), and FTX DM, in provisional liquidation, acting by its Joint Provisional Liquidators without personal liability (“*FTX DM*” and, together with the Chapter 11 Debtors, the “*Parties*”), will be effective when approved by the United States Bankruptcy Court for the District of Delaware (the “*U.S. Bankruptcy Court*”) in respect of the Chapter 11 Debtors and sanctioned by the Supreme Court of the Commonwealth of The Bahamas (the “*Bahamas Court*”) in respect of FTX DM. Once this Agreement is approved by each of the U.S. Bankruptcy Court and the Bahamas Court, it shall (a) constitute the entire agreement between the parties; (b) supersede any and all prior written and/or oral agreements among the parties; and (c) shall be enforceable pursuant to its terms. To the extent not so approved, this document and any communications, oral or written, regarding the subject matter hereof constitute (a) settlement communications within the meaning of U.S. Federal Rule of Evidence 408 and any equivalent rule in any relevant jurisdiction and (b) without prejudice discussions under the laws of The Commonwealth of The Bahamas.

### Goals

1. The shared goal of the Parties is maximizing the recovery to the customers and creditors of each estate, which includes maximizing the recoverable assets at each estate and properly returning value to the appropriate estate.
2. The Parties also share the goals of avoiding redundant work, minimizing expense and respecting the sovereignty of different legal systems.
3. Accordingly, the Parties have determined to proceed with parallel proceedings in the U.S. Bankruptcy Court and the Bahamas Court, and to coordinate in so far as possible the prosecution of parallel proceedings to accomplish these goals.

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### Agreed Primary Recovery Functions

4. The Parties agree that FTX DM shall be primarily responsible for recovering value from (a) the assets and property in the name of FTX DM, including without limitation, all real and personal property and bank and security accounts in the name of FTX DM, regardless of where located; (b) the approximately \$45 million of USDT currently frozen in The Bahamas; (c) the sale or reorganization of FTX DM; (d) claims to the extent belonging to FTX DM under applicable law; (e) intercompany accounts and claims of FTX DM against any of the Chapter 11 Debtors or their affiliates; and (f) the sale of any businesses or investments in the name of FTX DM.
  
5. The Parties agree that the Chapter 11 Debtors shall be primarily responsible for recovering value from all assets and property not reserved in paragraph 4 above, including without limitation (a) assets and property not in the name of FTX DM; (b) the sale of businesses and investments of the Chapter 11 Debtors; (c) the sale or reorganization of the Chapter 11 Debtors; (d) cryptocurrency (subject to provisions hereof); (e) intercompany accounts and claims of any of the Chapter 11 Debtors or their affiliates against FTX DM; and (f) all claims to the extent belonging to the Chapter 11 Debtors under applicable law.
  
6. The Parties will work together in good faith during the next six months (commencing on the date hereof) in coordination with appropriate stakeholders in their respective proceedings to develop alternatives for the potential sale, reorganization or other monetization of (a) the international FTX.com platform (the “*International Platform*”) and (b) cryptocurrency held or managed by the Chapter 11 Debtors in accordance with this Agreement and associated with the International Platform (and not traceable to customers of FTX US). In order to allow for the foregoing, the Chapter 11 Debtors will not sell or otherwise monetize the cryptocurrency associated with the International Platform (other than stablecoins) during this period without prior consultation with the JPLs and either (x) the approval of the U.S. Bankruptcy Court or (y) the approval of the

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JPLs, not to be unreasonably withheld, conditioned or delayed.

7. Save for the arrangements concerning PropCo that are provided for below, the Parties will discuss whether there may be cooperation or other arrangements between the JPLs and the Chapter 11 Debtors organized under U.S. law or the laws of The Commonwealth of The Bahamas that further the goals and objectives of this Agreement.
8. In furtherance of the shared goals described above, the Parties will consult reasonably and in good faith with respect to (a) claims in which there is a dispute as to which Party is the appropriate plaintiff or litigant and (b) litigation in which both Parties have, or may have, claims against the same defendant.
9. Each Party acknowledges that the other Party is a stakeholder and a party-in-interest in the Chapter 11 cases pending in respect of the Chapter 11 Debtors (collectively, the "*Chapter 11 Cases*"), any Bahamian proceedings related to FTX or the International Platform (the "*Bahamas Proceedings*") or any related proceedings in other jurisdictions. Each Party shall consult reasonably and in good faith with the other Party and assist where requested in supporting the appearance of either Party at motions/directions or other requested relief in any such proceedings in connection with the asset recovery functions relating to the International Platform for which it has primary responsibility, including without limitation to exercise the rights of a party-in-interest with respect to: (a) the reasonableness of the asset recovery decisions for which it has primary responsibility; (b) the settlement of intercompany claims; (c) the desirability or viability of a potential reorganization of the International Platform; and (d) the relative recovery of International Platform customers versus other creditors (including without limitation in connection with plan formation or distribution schemes in any jurisdiction). FTX DM will reasonably limit its involvement in the Chapter 11 Cases to matters where it has a bona fide interest affecting recoveries by the Parties for the benefit of customers of the International Platform.





10. This Agreement does not address or compromise any rights or obligations of any Party arising out of or related to the user agreements or other arrangements relating to the International Platform or any other matter not specifically addressed in this Agreement.
  
11. The Parties will work together in good faith to determine ownership of assets that are subject to competing claims and to ensure that any court process(es) relating to an adjudication of any dispute is conducted as efficiently as is possible. Where one Party wishes to resolve a dispute among the Parties as to any matter (including without limitation relating to the ownership of any asset, standing to pursue claims or the nature of customer claims), such Party may upon reasonable notice to the other party proceed with litigation in either the U.S. Bankruptcy Court or The Bahamas Court with respect to the applicable matters. Pending resolution of such matters, property will be administered as provided in paragraphs 4 and 5. Upon agreement by the Parties (or a final and binding court determination by both the U.S. Bankruptcy Court and the Bahamas Court) that one Party owns an asset the primary responsibility for which has been allocated to the other Party pursuant to paragraphs 4 and 5 above, this Agreement will be deemed modified such that the Party owning the asset will have primary responsibility to monetize such asset, with the Other Party having the rights set forth in this Agreement for a party that does not have primary responsibility for such asset.

#### **Court Process**

12. To implement the forgoing, the Parties agree to proceed as follows. First, the Chapter 11 Debtors shall support the continuation of FTX DM's provisional liquidation through Chapter 15 recognition in the U.S. Court and the enforcement and/or the recognition in the U.S. of all orders of the Bahamas Court and elsewhere that are consistent with the Agreement, on mutually agreed and reasonable terms, *provided* that recognition under Chapter 15 would not require the U.S. Bankruptcy Court to defer to the decisions of any foreign court (or alter a *de novo* standard of review) relating to any matter raised by the Chapter 11 Debtors in the Chapter 11 Cases with respect to property of the estate of the Chapter 11 Debtors (including without limitation the scope of property of the estate, the application or extension of the automatic stay or the compromise or discharge of estate or

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third party claims in connection with a plan of reorganization). Recognition in the United States shall be subject to and effective only upon the entry of orders providing analogous relief to the Chapter 11 Debtors in the Bahamas Proceedings in form and substance reasonably satisfactory to the Chapter 11 Debtors.

13. Second, the JPLs shall support the continuation of the Chapter 11 Cases and the enforcement and/or recognition in the Commonwealth of The Bahamas of the Chapter 11 cases and all orders of the U.S. Bankruptcy Court and elsewhere that are consistent with the Agreement, on mutually agreed and reasonable terms, *provided* that recognition in The Bahamas would not require the Bahamas Court to defer to the decisions of any foreign court (or alter a *de novo* standard of review) relating to any matter raised by the JPLs in the Bahamas Proceedings with respect to property of the estate of FTX DM (including without limitation the scope of property of the estate, the application or extension of the automatic stay or the compromise or discharge of estate or third party claims in connection with a plan of reorganization). Recognition in The Bahamas shall be subject to and effective only upon the entry of a Chapter 15 recognition order in form and substance reasonably satisfactory to FTX DM.

14. Third, the JPLs agree that they will not seek dismissal of the Chapter 11 case of any Chapter 11 Debtor.

15. Fourth, the Parties agree that the value in the properties owned by FTX Property Holdings Ltd. ("*PropCo*") will be realized over time in one or more arm's-length marketing processes utilizing the services of one or more mutually acceptable independent brokers in a manner and on a timeframe designed to maximize the recovery. The Parties agree that either a liquidation proceeding with respect to PropCo will be opened in the Bahamas Court to run concurrently with the pending Chapter 11 case of PropCo or the Parties will determine another mutually acceptable arrangement for the sale of the applicable properties free and clear of claims against such properties. The JPLs' motion to dismiss the Chapter 11 case of Propco will be dismissed with prejudice. The JPLs (or any other person appointed as liquidator of Propco reasonably acceptable to



the Chapter 11 Debtors), shall take the lead in managing the properties, determining the appropriate strategy for the monetization of the properties, identifying buyers and conducting the marketing process, *provided* that the strategy, as well as the buyers and deal terms recommended by the JPLs, will be subject to approval by the Chapter 11 Debtors (such approval not to be unreasonably withheld or delayed).

16. Subject to the sanction of the Bahamas Court in respect of FTX DM and the approval of the U.S. Bankruptcy Court in respect of the Chapter 11 Debtors, as necessary, the Parties shall fund the carrying costs of PropCo (to the extent not funded from cash flow of the properties) by mortgage loans from third parties, the Chapter 11 Debtors and/or FTX DM. Such loans shall be fully collateralized and repaid from the first available sale proceeds.
17. Each Party shall bear its own expenses in all proceedings out of the unencumbered assets of its own estate. However, with respect to PropCo, each Party's reasonable and documented costs and expenses with respect to PropCo (including, without limitation, reasonable costs and expenses relating to PropCo that were incurred prior to the date hereof, and including the reasonable and documented fees of the professionals to the unsecured creditors committee in the Chapter 11 cases and any analogous creditors committee in the Bahamas Proceedings) shall be disclosed to all interested parties and charged to PropCo (and not to FTX DM or the other Chapter 11 Debtors) and paid or reserved for at sale from first available net sale proceeds. 100% of the proceeds from the sale of PropCo net of such reasonable costs and expenses shall be deposited in an escrow account under arrangements reasonably acceptable to the Parties and not released unless the Parties agree or such release is approved by each of the U.S. Bankruptcy Court and The Bahamas Court.

#### **Claims and Distributions**

18. The Chapter 11 cases and the provisional liquidation of FTX DM shall proceed in parallel. The Parties will propose procedures for court-to-court communication based on

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international best practices and acceptable to each of the U.S. Bankruptcy Court and The Bahamas Court.

19. The Parties shall work in good faith to arrange matters so that, to the extent practicable under applicable law and consistent with each Party's fiduciary duties,
- a. the proceedings reach, in parallel, substantially similar conclusions as to common questions of fact and law, including the allowance and ranking of FTX.com customer claims and the nature of customer claims segregated, commingled and other property;
  - b. the applicable Chapter 11 plan in the United States and winding up or distribution plan in The Bahamas each involve a global settlement of all claims of the Parties arising out of or relating to the ownership of assets and property and the matters contemplated by this Agreement;
  - c. no FTX.com customer receives, in total, more than the allowed amount of their claim; and
  - d. no FTX.com customer receives greater or less total rateable distributions than any other FTX.com customer.
20. The Parties shall in good faith coordinate the timing of the prosecution of the applicable proceedings such that distributions are not made to any FTX.com customer in one proceeding prior to a determination of whether such claims are allowed in the other proceeding.
21. The Parties shall consider the feasibility of a joint claims process in which FTX.com customers are only required to file one claim that would be applicable in both the U.S. Chapter 11 Cases and the Bahamas Proceedings.

#### **Information Sharing**

22. The Parties will share information in their possession concerning the matters contemplated by this Agreement, subject to mutually satisfactory arrangements to

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preserve confidentiality and any privilege of any party, and to respect the requests of their applicable regulators or law enforcement, *provided* that nothing in this Agreement shall oblige a Party to share privileged material with any other Party. Each Party will ensure that the other Party receives copies of any pleading, report, or information filed in the Chapter 11 Cases or the Bahamas Proceedings, subject to appropriate confidentiality arrangements for any sealed materials.

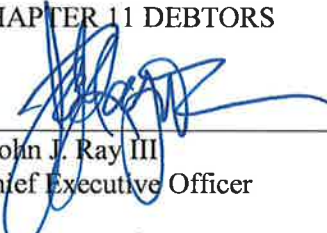
### **Dispute Resolution**

23. In the event of a dispute as to the meaning or operation of this Agreement or the orders entered to give it effect in the applicable jurisdictions, each Party may, upon reasonable advance notice to the other party, seek relief from either the U.S. Bankruptcy Court or The Bahamas Court separately without any requirement to commence concurrent proceedings. Prior to commencing any action for relief, the Parties will consult in good faith whether mediation is appropriate and the place and manner of such mediation.
  
24. Neither Party waives any right, obligation, claim, or cause of action against any other Party, except as expressly provided in this Agreement.


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Dated: January 6, 2023


THE CHAPTER 11 DEBTORS

By:   
Name: John J. Ray III  
Title: Chief Executive Officer

THE JOINT PROVISIONAL LIQUIDATORS  
OF FTX DIGITAL MARKETS, LTD.

By:   
Name: Brian Cecil Simms KC  
Title: Joint Provisional Liquidator of FTX  
Digital Markets Ltd.

By:   
Name: Peter Greaves  
Title: Joint Provisional Liquidator of FTX  
Digital Markets Ltd.

By:   
Name: Kevin G. Cambridge  
Title: Joint Provisional Liquidator of FTX  
Digital Markets Ltd.