

ATTORNEY GENERAL OF THE STATE OF NEW YORK
INVESTOR PROTECTION BUREAU

In the Matter of

Assurance No. 26-005

**Investigation by LETITIA JAMES,
Attorney General of the State of New York, of**

Uphold HQ Inc.,

Respondent.

ASSURANCE OF DISCONTINUANCE

The Office of the Attorney General of the State of New York (“OAG”) commenced an investigation pursuant to New York General Business Law (“GBL”) Article 23-A, §§ 352 *et. seq.* (the “Martin Act”) and New York Executive Law § 63(12) into misleading statements and omissions in connection with the unregistered offers and sales of securities and the exchange of commodities by Uphold HQ Inc. (“Uphold” or “Respondent”). This Assurance of Discontinuance (“Assurance”) contains the findings of OAG’s investigation, and the relief agreed to by OAG and Uphold (the “Parties”).

FACTUAL FINDINGS

A. Uphold Partnered with Cred to Offer CredEarn on its Platform

1. Uphold is a cryptocurrency platform which offers users the ability to buy, sell, and trade digital assets. On its website and mobile app, Uphold offered and advertised various products and services by third parties. To buy digital assets on Uphold’s platform, investors were required to create an account and agree to Uphold’s terms. Beginning in at least 2018, Uphold maintained an office in the State of New York. Uphold’s customers, at times, included New

Yorkers.

2. In 2018, Uphold partnered with Cred, LLC (“Cred”) to offer Cred’s cryptocurrency lending product, CredEarn, to Uphold’s customers via Uphold’s platform and mobile app. CredEarn promised to pay investors interest on the cryptocurrency they lent to Cred. Cred was part owned by Daniel Schatt, who was also Cred’s Chief Executive Officer (“CEO”) and later became a director of Uphold.

3. In July 2018, Uphold and Cred entered into an agreement pursuant to which Uphold would advertise CredEarn to its customers on the Uphold platform and mobile app.

4. An Uphold user who wanted to earn interest through CredEarn would click on an ad, a popup, or a Cred link on the Uphold website. If the user wished to enroll in CredEarn, the website would prompt the user to create an Uphold account if he did not have one already, and the user would then be asked to fund his Uphold account with assets, including cryptocurrency, which he could invest into CredEarn to earn interest. To invest in CredEarn, the investor would be redirected to the Cred website and be provided with a notification that he is leaving Uphold’s platform and entering Cred’s website.

5. On the Cred website, if the user decided to invest, the user would enter into an Enhanced Yield Agreement with Cred to lend Cred a specified amount and type of asset, including cryptocurrency, for a fixed interest for a set term. Once Uphold received confirmation of the investor’s decision to invest in Cred, Uphold then transferred the specified amount of the investor’s assets, including cryptocurrency, as directed by the investor, from his Uphold account to Cred’s account on the Uphold platform.

6. Cred maintained an account on Uphold’s platform where Cred pooled together assets, including cryptocurrency, from many CredEarn investors. Uphold understood that Cred

then transferred these pooled investor assets out of Cred's Uphold account, converted them into fiat currency or stablecoin, and subsequently lent them out to third parties. Cred represented to Uphold that it was entering into hedging contracts to protect transactions. Uphold further understood that those third parties promised to pay high interest rates to Cred, which would then pay a portion of the interest to CredEarn investors. Investors relied on Cred's efforts and expertise to select asset managers and borrowers for their assets to generate yield.

B. Uphold Advertised CredEarn to its Users

7. From 2019 to October of 2020, Uphold advertised CredEarn on its website and mobile app by placing a link to Cred on its home screen, by posting banners and popups on its website advertising CredEarn, and by sending advertisements and emails about CredEarn to its customers. Uphold collaborated with Cred on the advertisements and emails.

8. In 2019, upon Cred's public launch, Uphold told its customers that CredEarn was available "exclusively" through Uphold and attracted new customers to its own platform by offering the CredEarn product. Uphold promoted Cred to its users via ads and pop-up banners, and Cred was featured on Uphold's page of third-party integrations.

9. Between 2019 and October 2020, over 6,000 Uphold customers invested approximately \$50,000,000 worth of cryptocurrency into CredEarn through the Uphold platform.

10. Uphold had a banner on its website which stated "Earn with Cred. Start earning up to 10% on your digital assets." If a user clicked on a CredEarn banner or ad, the user was brought to the CredEarn product page on Uphold's website, which stated: "Become an Uphold member for a chance to earn up to 10% interest on the loan of your digital assets with CredEarn," with steps for signing up for CredEarn.

11. Uphold promoted CredEarn in several of its newsletters. For example, on January

31, 2019, shortly after Cred's public launch, Uphold emailed its customers an Uphold Insights Issue 2 newsletter which profiled and promoted Cred. The newsletter advertised CredEarn as a "[r]evolutionary savings product offered exclusively through Uphold." The newsletter compared CredEarn's returns with much lower returns from traditional financial institutions and stated that "Cred can reduce traditional lending spreads and manage its risk through its asset-backed retail lending services and strict corporate underwriting criteria."

C. Uphold Investor Funds Were Deployed with MoKredit

12. From 2019 through at least January of 2020, Uphold understood that the main borrower of CredEarn's cryptocurrency was a Chinese micro-lender called MoKredit. Lu Hua, part owner of Cred, was also the owner of MoKredit. Uphold understood that MoKredit lent the funds it obtained from CredEarn investors to Chinese video gamers at interest rates often exceeding 35%; that MoKredit's borrowers were typically young adults in their 20s and 30s who had low monthly incomes, no credit histories, and no access to credit through traditional Chinese financial institutions; and that MoKredit extended to these borrowers uncollateralized short-term micro-loans ranging from \$1.45 to \$290 for a period of 14 days.

13. Uphold did not state that to generate the high interest promised to investors, Cred deployed customer cryptocurrency in ventures such as MoKredit.

14. Starting in March 2020, MoKredit failed to repay its principal to Cred. Uphold did not find this out until the fall of 2020.

D. Statements About Insurance Coverage

15. Uphold made statements concerning Cred's insurance coverage based on information provided by Cred. A joint press release by Uphold and Cred, on June 3, 2019, in Business Wire, titled *Earn up to 10% interest on USD and Euro*, stated that Cred "has some of

the most comprehensive insurance offered in the crypto lending sector.” In Cred’s follow up emails to CredEarn investors, which were received by Uphold users with funds invested in CredEarn, Cred misrepresented that its insurance covered customers’ digital assets. For example, on July 14, 2020, Cred emailed all CredEarn subscribers that “[w]e have comprehensive insurance and security policies to protect your digital assets and your data.” These statements were misleading because, although Cred had other forms of insurance, no insurance existed in the industry to protect customers’ digital assets from investment loss. Yet Uphold advertised Cred’s “comprehensive insurance.”

16. In October 2020, Uphold learned that Cred lost significant investor funds and demanded that Cred report the losses to its regulators or Uphold would disclose the loss. Cred incurred significant losses as a result of its risky lending practices and mismanagement, and declared bankruptcy in November 2020, resulting in investor losses of hundreds of millions of dollars including to thousands of investors who invested in CredEarn through the Uphold platform and who lost over \$34 million.

17. Respondent admits the factual findings contained in paragraphs 1-16.

OAG’S FINDINGS

18. OAG finds that Cred’s Enhanced Yield Agreements were investment contracts and securities under the Martin Act. Uphold offered and effected transactions in CredEarn securities to its customers and received a fee from Cred. Uphold was also engaged in the business of selling or offering to sell commodities in the form of cryptocurrency on its platform, at times within or from New York.

19. Digital assets are commodities under the Martin Act. OAG finds that Uphold acted as both a broker and commodity broker-dealer under New York law. GBL § 359-e. While

effecting transactions in CredEarn securities and offering to sell and selling cryptocurrency, Uphold failed to register with the OAG as either a broker or commodity broker-dealer. Uphold was not exempt from registration. OAG finds that such failure to register is a violation of the Martin Act unless exempt. GBL § 352; GBL § 359-e (14)(j) and (l).

20. The OAG finds that the actions of Respondent described above in paragraph 1-19, and specifically in paragraphs 11, 13, and 15, included material misstatements or omissions in connection with promotion and advertisement of CredEarn and are in violation of the Martin Act §§ 352 *et seq.* and Executive Law § 63(12). OAG also finds that Respondent's failure to register with the OAG as a broker or commodity broker-dealer as described above in paragraphs 18 and 19 is a violation of GBL § 359-e and Executive Law § 63(12).

21. OAG finds the relief and agreements contained in this Assurance appropriate and in the public interest. Therefore, OAG is willing to accept this Assurance pursuant to Executive Law § 63(15), in lieu of commencing a statutory proceeding for violations of the Martin Act §§ 352 *et seq.* and Executive Law § 63(12) based on the conduct described above between 2018 and 2020.

IT IS HEREBY UNDERSTOOD AND AGREED, by and between the Parties:

RELIEF

A. General Injunction

22. Respondent shall not offer or sell within or from New York any unregistered non-exempt securities or commodities, including digital assets, unless and until it is in compliance with GBL § 359-e and 23 CRR-NY 200.3, and expressly agrees and acknowledges that any such conduct is a violation of the Assurance, and that the OAG thereafter may commence the civil action or proceeding contemplated in paragraph 21, *supra*, in addition to any other appropriate

investigation, action, or proceeding.

B. Programmatic Relief

23. Uphold shall institute and maintain a risk-based due diligence process and underwriting criteria to review its partners prior to recommending their services or products to Uphold's customers via the Uphold platform or mobile app. As appropriate, this may include review of: corporate documents, insurance policies, organization charts, reports filed with government agencies, conflicts of interest, audited financials or, if unavailable, other financial statements, compliance policy, risk policy, investment policy, customer checks, security and technology, and implementation of other best practices. Uphold shall also, as appropriate, interview independent third parties, such as accountants, auditors, experts, or competitors to verify claims made by the partner and review the partner's past operating performance, proposed operating plans and budgets, accounting system and internal controls, and compliance with laws or regulations that could affect the partner's business.

24. Acceptance of this Assurance by the OAG is not an approval or endorsement by the OAG of any of Respondent's policies practices or procedures, and the Respondent shall make no representation to the contrary.

C. Monetary Relief

25. Respondent shall pay monetary compensation in the principal amount of FIVE MILLION DOLLARS (\$5,000,000.00) in damages (the "Monetary Relief") as described below.

26. Additionally, any initial distribution received by Respondent in satisfaction of its general unsecured claim in the amount of \$545,189.97 filed by it in the Cred bankruptcy proceedings, *Cred, Inc., et al*, Case No. 20-12836 (JTD), pending in the U.S. Bankruptcy Court for the District of Delaware ("Bankruptcy Payout") shall be added to the Monetary Relief and be

distributed as described below. To the extent Respondent receives any additional funds in satisfaction of its general unsecured claim, it shall promptly transfer them to OAG and shall not be required to effectuate the distribution of such additional funds to investors.

27. Respondent agrees that it will not claim, assert, or apply for a tax deduction or tax credit with regard to any federal, state, or local tax, directly or indirectly, for any portion of the Monetary Relief.

28. Respondent represents that it has not made a claim and will not make a claim for indemnity, reimbursement, or insurance with respect to any of the Monetary Relief.

D. Distribution of Monetary Relief

29. No later than 14 days after the execution of this Assurance, Respondent shall establish a segregated account into which it shall deposit the Monetary Relief (“Reimbursement Account”) for distribution to eligible investors as determined by OAG and communicated by it to Respondent (“Eligible Investors”).

30. Respondent shall ensure that distribution to Eligible Investors of reimbursement funds (“Reimbursement Funds”) does not violate state or federal law. To the extent that Respondent determines that any distribution would violate state or federal law by virtue of the Eligible Investor’s residence or for any other reason, Respondent shall communicate same to the OAG, and such Eligible Investor will be deemed to no longer be an Eligible Investor, and funds allotted to such investor shall remain in the Reimbursement Account.

31. No later than 20 days after the execution of this Assurance, Respondent shall communicate to Eligible Investors that OAG has secured a settlement with Respondent that requires Respondent to partially reimburse the Eligible Investor for Respondent’s marketing of CredEarn. Respondent shall submit this communication to OAG for review and approval. For

this communication, Respondent shall use the last known email address contained in Respondent's records associated with each Eligible Investor. The communication will inform Eligible Investors that Respondent will make a deposit in U.S. Dollars for the investors with a U.S. address, or in stablecoins Greenlisted by the New York State Department of Financial Services for investors with addresses outside the U.S., to Eligible Investors' Uphold account in an amount determined solely by OAG. It will also inform Eligible Investors that in order to claim Reimbursement Funds, the Eligible Investor must login to his Uphold account and click "Accept Reimbursement Funds." Uphold agrees to implement a technology solution that will prominently display "Accept Reimbursement Funds" button. Respondent's communication to Eligible Investors will also state that, to the extent that any Eligible Investor no longer maintains an account on Uphold, Eligible Investors may create an account for the purpose of receiving the Reimbursement Funds at no fee and will include a link and instructions for creating such an account. The communication shall further state that after clicking "Accept Reimbursement Funds" and receiving Reimbursement Funds in their Uphold accounts, all Eligible Investors will be permitted to withdraw the Reimbursement Funds from their Uphold account without incurring any fees within ninety (90) days of distribution and that subsequent withdrawals will be subject to Uphold's usual terms and conditions.

32. Respondent shall include OAG on its mass email communications with Eligible Investors. Respondent shall send the above-referenced email to Eligible Investors every two weeks for ninety (90) days. If an Eligible Investor fails to login and click "Accept Reimbursement Funds" within fourteen (14) days after receiving the last of the above-referenced communications, this Eligible Investor's Reimbursement Funds will remain in the Reimbursement Account.

33. Uphold will not make any transfers out of the Reimbursement Account that are not directed or authorized by OAG.

34. No later than 150 days after the execution of this Assurance, Respondent shall complete its distribution of Reimbursement Funds to Eligible Investors, who clicked “Accept Reimbursement Funds.”

35. Within 180 days of execution of this Assurance, Respondent shall provide OAG an affidavit certifying its compliance with the requirements set forth in this section (D) of this Assurance (“Certification of Compliance”). Certification of Compliance shall be in writing, sworn, and signed by Respondent. Certification of Compliance shall include the list of Eligible Investors to whom reimbursement funds were distributed, the date each Eligible Investor clicked “Accept” to receive Reimbursement Funds, confirm the amounts of Reimbursement Funds distributed to each Eligible Investor in fiat or stablecoin, the dates the funds were distributed, and anonymized data sufficient to show whether Reimbursement Funds (i) were withdrawn from Uphold, (ii) remained on Uphold and were used to purchase Bitcoin or Ether, (iii) remained on Uphold and were used to purchase cryptocurrency other than Bitcoin or Ether, or (iv) remained on Uphold but were not yet used. The Certificate of Compliance will display this data both in U.S. Dollars and as a percentage of total distributed funds, broken down by United States versus foreign jurisdiction, without any reference to individual Eligible Investors. Certification of Compliance shall identify all Eligible Investors who did not receive Reimbursement Funds and state reasons each Eligible Investor did not receive Reimbursement Funds. Certification of Compliance shall include the total amounts in U.S. Dollars paid out by Respondent from the Reimbursement Account to Eligible Investors and the amount in U.S. Dollars remaining in the Reimbursement Account.

36. Within 180 days after the execution of this Assurance, Respondent shall transfer any and all remaining funds from the Reimbursement Account to an account designated by OAG, by wire transfer, with instructions to be provided by the OAG.

37. Respondent agrees to refrain from sending Eligible Investors targeted advertising, suggesting how Eligible Investors may use the Reimbursement Funds.

38. Respondent expressly agrees and acknowledges that a default in the performance of any obligation under this section (D) is a violation of the Assurance, and that the OAG thereafter may commence the civil action or proceeding contemplated in paragraph 21, *supra*, in addition to any other appropriate investigation, action, or proceeding, and that evidence that the Assurance has been violated shall constitute prima facie proof of the statutory violations described in paragraphs 20 and 21, pursuant to Executive Law § 63(15).

MISCELLANEOUS

A. Cooperation

39. Respondent shall cooperate fully and promptly with the OAG in any and all matters relating to the conduct described in this Assurance, including in distribution of Monetary Relief. Willful and material failure to comply with this paragraph in any respect shall be a violation of this Assurance.

B. Subsequent Proceedings

40. Failure to comply with any provision of this Assurance shall be deemed to be a violation of this Assurance. Upon any such violation, the OAG may take any and all steps available to enforce this Assurance.

41. Respondent expressly agrees and acknowledges that the OAG may initiate a subsequent investigation, civil action, or proceeding contemplated in paragraph 21, *supra*, to

enforce this Assurance, for violations of the Assurance, or if the Assurance is voided pursuant to paragraph 49 and agrees and acknowledges that in such event:

- a. any statute of limitations or other time-related defenses are tolled from and after the effective date of this Assurance;
- b. the OAG may use statements, documents or other materials produced or provided by the Respondent prior to or after the effective date of this Assurance;
- c. any civil action or proceeding must be adjudicated by the courts of the State of New York, and that Respondent irrevocably and unconditionally waives any objection based upon personal jurisdiction, inconvenient forum, or venue; and
- d. evidence of a violation of this Assurance shall constitute prima facie proof of a violation of the applicable law described in paragraph 21, *supra*, pursuant to Executive Law § 63(15).

42. If a court of competent jurisdiction determines that the Respondent has violated the Assurance, the Respondent shall pay to the OAG the reasonable cost, if any, of obtaining such determination and of enforcing this Assurance, including without limitation legal fees, expenses, and court costs.

C. Effects of Assurance

43. This Assurance is not intended for use by any third party in any other proceeding.

44. This Assurance is not intended, and should not be construed, as an admission of liability by the Respondent.

45. No party may assign, delegate, or otherwise transfer any of its rights or obligations under this Assurance without the prior written consent of the OAG. All terms and

conditions of this Assurance shall continue in full force and effect on any successor, assignee, or transferee of the Respondent. Respondent shall include in any such successor, assignment or transfer agreement a provision that binds the successor, assignee or transferee to the terms of the Assurance.

46. Nothing contained herein shall be construed as to deprive any person of any private right under the law.

47. Any failure by the OAG to insist upon the strict performance by Respondent of any of the provisions of this Assurance shall not be deemed a waiver of any of the provisions hereof, and the OAG, notwithstanding that failure, shall have the right thereafter to insist upon the strict performance of any and all of the provisions of this Assurance to be performed by the Respondent.

D. Communications

48. All notices, reports, requests, and other communications pursuant to this Assurance must reference Assurance No. 26-005, and shall be in writing and shall, unless expressly provided otherwise herein, be given by hand delivery, express courier, or electronic mail at an address designated in writing by the recipient, followed by postage prepaid mail, and shall be addressed as follows:

If to the Respondent, to:

Kimberly S. Morris
Baker Hostetler
Transamerica Pyramid Center
600 Montgomery Street | Suite 3100
San Francisco, CA 94111-2806
kmorris@bakerlaw.com

If to the OAG, to:

Tanya Trakht
28 Liberty Street, 21st Floor,
New York, NY 10005
tanya.trakht@ag.ny.gov

or in her absence, to Shamiso Maswoswe, Chief of the Investor Protection Bureau.

E. Representations and Warranties

49. The OAG has agreed to the terms of this Assurance based on, among other things, the representations made to the OAG by the Respondent and its counsel and the OAG's own factual investigation as set forth in Factual Findings and OAG's Findings. The Respondent represents and warrants that neither it nor its counsel has made any material representations to the OAG that are inaccurate or misleading. If any material representations by Respondent or its counsel are later found to be inaccurate or misleading, this Assurance is voidable by the OAG in its sole discretion.

50. No representation, inducement, promise, understanding, condition, or warranty not set forth in this Assurance has been made to or relied upon by the Respondent in agreeing to this Assurance.

51. The Respondent represents and warrants, through the signatures below, that the terms and conditions of this Assurance are duly approved. Respondent further represents and warrants that Respondent, by Mark Anderson, as the signatory to this Assurance, is a duly authorized officer acting at the direction of the Board of Directors of Respondent.

F. General Principles

52. Unless a term limit for compliance is otherwise specified within this Assurance, the Respondent's obligations under this Assurance are enduring. Nothing in this Agreement shall relieve Respondent of other obligations imposed by any applicable state or federal law or regulation or other applicable law.

53. Nothing contained herein shall be construed to limit the remedies available to the OAG in the event that the Respondent violates the Assurance after its effective date.

54. Respondent agrees not to take any action or to make or permit to be made any public statement denying, directly or indirectly, any finding in the Assurance or creating the impression that the Assurance is without legal or factual basis. Respondents may advance defenses in litigation or regulatory proceedings with other parties regarding the same or similar conduct.

55. This Assurance is not intended to subject Respondents to, or form the basis for, any disqualifications contained in the federal securities laws or the Commodity Exchange Act, the rules and regulations thereunder, the rules and regulations of any self-regulatory organizations, or various states' securities laws, including any disqualifications from relying upon registration exemptions or safe harbor provisions.

56. This Assurance is not intended to form the basis for any disqualification from Respondent's ability to apply for, or be granted, registration with OAG now or in the future as a broker-dealer under the laws, rules, and regulations of the State of New York. This Assurance further does not preclude Respondent from relying on any exemptions or safe harbor provisions to which Respondent may be subject under the laws, rules and regulations of the State of New York.

57. This Assurance is not a final order of any court.

58. This Assurance may not be amended except by an instrument in writing signed on behalf of the Parties to this Assurance.

59. In the event that any one or more of the provisions contained in this Assurance shall for any reason be held by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, in the sole discretion of the OAG, such invalidity, illegality, or unenforceability shall not affect any other provision of this Assurance.

60. Respondent acknowledges that they have entered this Assurance freely and voluntarily and upon due deliberation with the advice of counsel.

61. This Assurance shall be governed by the laws of the State of New York without regard to any conflict of laws principles.

62. The Assurance and all its terms shall be construed as if mutually drafted with no presumption of any type against any party that may be found to have been the drafter.

63. This Assurance may be executed in multiple counterparts by the parties hereto.

64. All counterparts so executed shall constitute one agreement binding upon all parties, notwithstanding that all parties are not signatories to the original or the same counterpart. Each counterpart shall be deemed an original to this Assurance, all of which shall constitute one agreement to be valid as of the effective date of this Assurance. For purposes of this Assurance, copies of signatures shall be treated the same as originals. Documents executed, scanned and transmitted electronically and electronic signatures shall be deemed original signatures for purposes of this Assurance and all matters related thereto, with such scanned and electronic signatures having the same legal effect as original signatures.

65. The effective date of this Assurance shall be April 29 2026.

LETITIA JAMES
Attorney General of the State of New York
28 Liberty Street
New York, NY 10005

By Tanya Trakht
Tanya Trakht
Senior Enforcement Counsel
Investor Protection Bureau

UPHOLD HQ INC.

By [Signature]
Mark Anderson
General Counsel

STATE OF NEW YORK
) ss.:
COUNTY OF WESTCHESTER

On the 28th day of APRIL in the year 2026 before me personally came Mark Anderson, to me known, who, being by me duly sworn, did depose and say that he resides in RYE BROOK, NY, that he is the General Counsel of the Uphold HQ Inc., the corporation described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by authority of the board of directors of said corporation, and that he signed his name thereto by like authority.

Sworn to before me this
28th day of APRIL, 2026

[Signature]
NOTARY PUBLIC
VENESSA VITIELLO
Commission# 01VI6412798
Notary Public State of New York
My Commission Expiration: 01/11/2029