



U.S. Department of Justice

United States Attorney  
Southern District of New York

The Silvio J. Mollo Building  
One Saint Andrew's Plaza  
New York, New York 10007

September 5, 2023

**BY ECF**

Honorable Lewis A. Kaplan  
United States District Judge  
Daniel Patrick Moynihan  
United States Courthouse  
500 Pearl Street  
New York, NY 10007-1312

Re: *United States v. Samuel Bankman-Fried*, S5 22 Cr. 673 (LAK)

Dear Judge Kaplan:

During the August 30, 2023 conference, the Court directed the parties to confer and submit a joint letter today outlining the status of the defendant's access to discovery and ability to communicate with counsel while detained at the Metropolitan Detention Center (the "MDC"). To that end, the Government submits this letter on behalf of the parties.

- **Air-Gapped Laptop Access at the MDC:** Since August 31, 2023, the defendant has had the ability to review electronic discovery at the MDC with an air-gapped laptop that is available in the legal visiting room 8:00 a.m. to 7:00 p.m., Monday through Friday, and 8:00 a.m. to 3:30 p.m., Saturday through Sunday and holidays. The MDC has notified counsel and the Government that defense counsel is not required to be present for the defendant to have access to the laptop. To date, there have been no reported issues with the functionality of the USB ports and software applications utilized thus far. On September 1, 2023, the defendant was informed by MDC staff that he had to leave the legal visiting room at 2:30 p.m. and return to his unit for the prisoner count, which deprived him of approximately 4.5 hours of additional review time. On September 2 and September 3, 2023, the defendant had access to the air-gapped laptop from 9:00 a.m. to 2:30 p.m., which deprived him of approximately 1.5 hours of additional review time each day.<sup>1</sup> Based on defense

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<sup>1</sup> On August 31, 2023, the Government conferred with defense counsel and requested that it be notified if there were any discovery access issues so that those issues could be promptly addressed with the MDC. On September 4, 2023, the Government inquired again if there were any discovery issues that needed to be addressed and no response was provided. On September 5, 2023, defense counsel raised the curtailed hours with the air-gapped laptop noted herein. The Government promptly notified the MDC. The MDC confirmed that the defendant can remain with the air-gapped laptop through the prisoner count.

counsel's request, the MDC has approved the use of a second air-gapped laptop, which can be stored in an area adjacent to the defendant's housing unit for increased convenience. Defense counsel has not determined if such an accommodation, which requires the defendant to purchase a second laptop, is warranted at this time.

- **Hard Drive Access at the MDC:** On August 30, 2023, the MDC confirmed that the defendant was in possession of two hard drives that were prepared by the defense. The first was shipped on August 18, 2023 and received at MDC on August 22, 2023. The second was shipped on August 23, 2023 and received at MDC on August 24, 2023. The defendant was first given access to these hard drives on August 31, 2023 with the air-gapped laptop. A third hard drive was hand delivered by defense counsel on September 1, 2023 and provided to the defendant that day. Based on the October 3, 2023 trial date, and the MDC's shared desire to minimize any discovery delays where possible, the MDC has agreed to receive hard drives directly from defense counsel, which can be promptly etched and delivered by MDC staff to the defendant (the "Etched Hard Drives"). Following these procedures, the most recent Etched Hard Drive was provided to the defendant on the same day it was received by MDC staff from defense counsel. The defendant is permitted to keep the Etched Hard Drives in his possession at all times and currently has three such drives. Separate and apart from the Etched Hard Drives, defense counsel, having completed the appropriate MDC authorization forms, is permitted to bring their own hard drives ("Counsel Hard Drives") to their legal visits with the defendant. During these visits, counsel is permitted to upload materials from the Counsel Hard Drives to the defendant's air-gapped computer and download materials from the same without MDC staff involvement.

In addition to the MDC procedures outlined above, the defendant continues to have access to the internet-enabled laptop at least two days per week at the 500 Pearl Street cellblock. On September 1, 2023, the Government conducted three internet speed tests at varying times throughout the day in the cellblock area where the defendant has access to the internet-enabled laptop. During the morning and early afternoon, the download transfer rate was recorded at 34 Mbps. During the late afternoon, the download transfer rate was recorded at 7.5 Mbps. Although the internet speed varied in the late afternoon, all three internet speeds are sufficient for most internet review activities. The internet-enabled laptop has also been updated with a new 9-cell battery provided by defense counsel that has approximately 8 hours battery life. At the defendant's request, he is scheduled to be produced to the cellblock on September 6, 2023. During that time the internet-enabled laptop will be available to the defendant, along with a hard drive provided by defense counsel to save and/or transfer work product.

Respectfully submitted,

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Cc: Defense Counsel (by ECF)