

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

v.

TERRAFORM LABS, PTE. LTD. and DO  
HYEONG KWON,

Defendants.

Civil Action No. 1:23-cv-01346-JSR

Hon. Jed S. Rakoff

 **PROPOSED ORDER**

The Court has received a letter dated September 25, 2023 from the Supreme Court of Singapore requesting additional information regarding the Letter of Request pursuant to the Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters issued by this Court on August 15, 2023. Defendants' counsel has provided this Court with the attached letter providing additional information for the Supreme Court of Singapore.

**IT IS HEREBY ORDERED** that Defendants may submit this Order, along with the attached letter, as this Court's response to the letter from the Supreme Court of Singapore.

  
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JED S. RAKOFF, U.S.D.J.

Dated: New York, New York  
October 13 2023

October 13, 2023

Attn: Ms. Gan Kam Yui  
Assistant Registrar  
Supreme Court of Singapore  
1 Supreme Court Lane  
Singapore 178879

Re: *Civil Action No. 1:23-cv-01346-JSR*: Response to Request, Pursuant to the Hague Convention of 18 March 1970 on Taking of Evidence Abroad in Civil or Commercial Matters, for International Judicial Assistance in Obtaining Evidence from PhoenixFin Pte. Ltd. a/k/a KuCoin (**AGC REF: AG/CIV/DM/SUPC/2023/9; SUP CT REF: TEA 11/2023/MN**)

Dear Ms. Gan Kam Yui:

Counsel for Defendants, Terraform Labs Pte Ltd. (“TFL”) and Kwon Do-Hyeong (collectively, “Defendants”), respectfully submit this letter on Defendants’ behalf in response to your letter dated 25 September 2023 (attached as Exhibit 1). In that letter, the Supreme Court of Singapore requested more information, in addition to costs for which the Attorney-General’s Chambers of Singapore would require to submit a supporting court application, in relation to the United States District Court for the Southern District of New York’s letter of request (“Letter of Request”) to PhoenixFin Pte. Ltd. a/k/a KuCoin (hereinafter, “KuCoin”) submitted pursuant to the Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters (the “Hague Evidence Convention”).

### **I. Request for Additional Information**

In paragraph 11 of your correspondence, the Supreme Court of Singapore requested more information about the requests for obtaining copies of documents from KuCoin (as detailed in Attachment A to the Letter of Request). Singapore-based counsel for Defendants have already submitted an application supporting these requests (attached as Exhibit 2), and an order was entered in terms, on 29 September 2023 (attached as Exhibit 3). Nonetheless, Defendants submit the following additional information in relation to Request for Production Nos. 1 to 4 to Attachment A to Letter of Request:<sup>1</sup>

Request for Production Nos. 1 to 4 in the Letter of Request seek communications and documents that will assist the fact finder in establishing the events leading up to and during

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<sup>1</sup> The Letter of Request also includes additional requests for production of documents, Requests for Production Nos. 5 through 7, which were submitted by the U.S. Securities and Exchange Commission (“SEC”). As the SEC submitted these requests, Defendants will defer to the SEC to submit additional information to support its specific requests.

the depeg events that occurred in May 2021 and May 2022, as alleged in the Amended Complaint (attached as Attachment B to the Letter of Request). As detailed in the Letter of Request, the U.S. Securities and Exchange Commission (“SEC”) alleges that after the market price of UST declined from its peg of one U.S. Dollar in May 2021 (“May 2021 Depeg”), Defendants misrepresented UST’s recovery by claiming that the algorithm was able to restore and maintain the price peg; when—according to the SEC—the peg instead recovered because Defendants entered an arrangement with a U.S. trading firm, Jump Trading LLC (“Jump”), to purchase substantial amounts of UST to support the price. The SEC alleges that the Defendants’ actions led to the May 2021 Depeg and the loss of \$40 billion of market value, including devastating losses for U.S. retail and institutional investors. It also alleges that the market price of UST again declined from its peg of one U.S. Dollar in May 2022 but was unable to be restored (“May 2022 Depeg”) because there was no intervention similar to Jump’s intervention in the May 2021 Depeg. Based on these allegations, the SEC alleges that Defendants misled investors about the stability of UST by claiming that the algorithm was able to automatically restore and maintain the peg price, which establishes the reliability and effectiveness of UST.

As further detailed in the Letter of Request, Defendants deny these allegations and assert that (1) Jump’s trades in UST were not the cause of the peg restoration in May 2021 and (2) the May 2022 Depeg was the result of an intentional effort by third parties to “short” UST causing it to depeg from its price and involved a direct, public intervention in an effort to combat the short. The data sought will show the proportion of overall trading in UST and Terra native tokens that was conducted by Jump and/or its affiliates in or around the period of the May 2021 Depeg, which is relevant and material to the issue of whether Jump caused the restoration of the peg after the May 2021 Depeg.

In light of the SEC’s allegations and the Defendants’ asserted defenses, Defendants submit the following additional information in response to each Request for Production:

**Request for Production No. 1:** The materials sought in Request for Production No. 1 seek information relevant to the determining the proportion of overall trading in UST and other tokens on the Terraform blockchain during the May 2021 Depeg by demonstrating how market participants traded on KuCoin—the largest trading venue for UST during the May 2021 Depeg. Although LUNA and UST tokens are native to the Terra blockchain, these tokens can be transferred to other blockchains, like Ethereum, traded on trading venues that are commonly referred to as decentralized exchanges (“DEXs”), or transferred “off-chain” to be traded on centralized cryptocurrency exchanges (“CEXs”), like KuCoin. KuCoin was one of the first of such exchanges to list UST, and by May 2021 was the largest exchanges of UST trading volume. Immediately preceding the May 2021 Depeg, on May 19, 2021, market participants were withdrawing UST from the Terra ecosystem and moving it to DEXs and CEXs. In particular, as reflected in Figure 1 below, commercially available data showing trading on KuCoin reflects that trading volume of UST on KuCoin increased significantly during the May 2021 Depeg, in comparison to the period prior to the May 2021 Depeg.

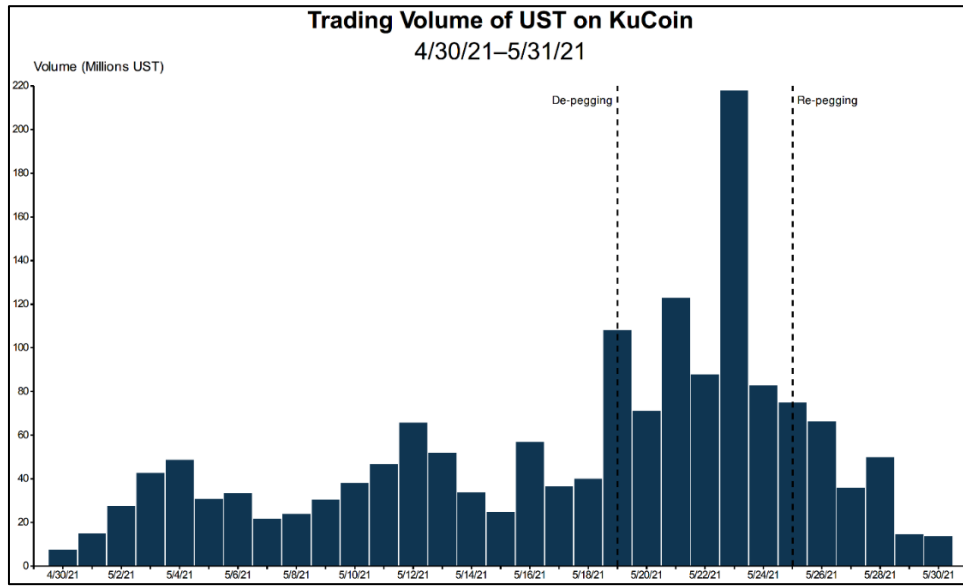


Figure 1.

This data also shows that market participants increased their UST selling activity on KuCoin early in the day on May 19, 2021 and kept selling at an elevated level through the end-of-day May 23, 2021, as reflected in Figure 2 below.

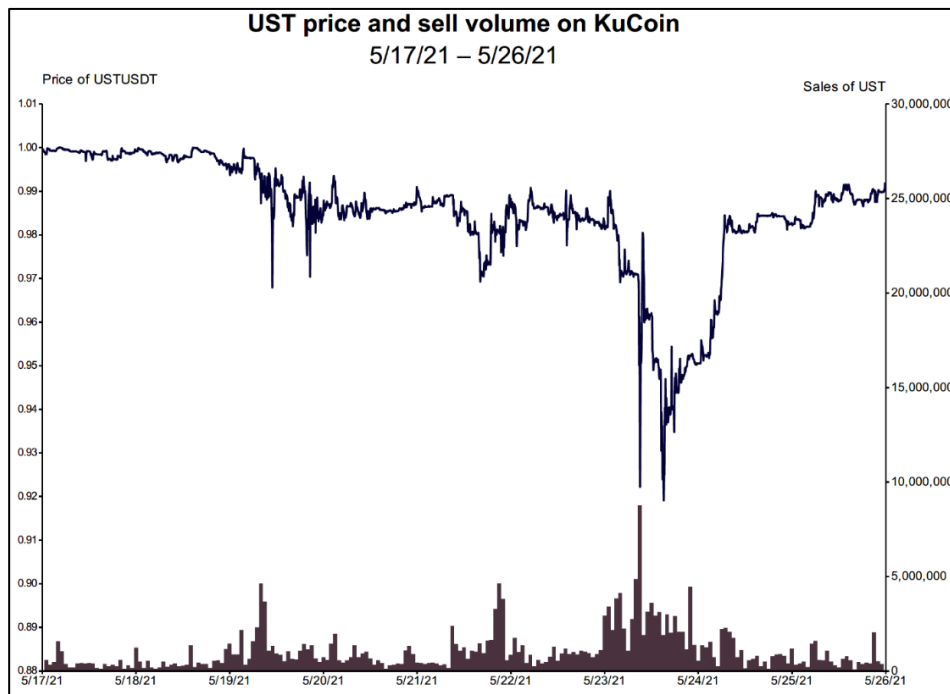


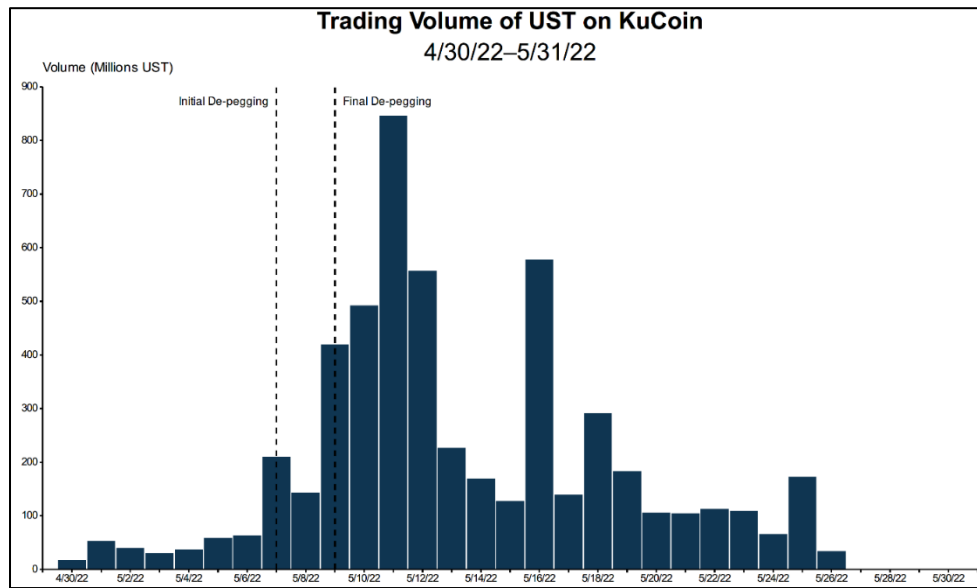
Figure 2.

With respect to Request for Production No. 1, the inclusion of communications and documents regarding the trading data, order submission data, and trading history of Terra-Native Tokens by all wallets and accounts between March 1, 2021 and May 30, 2021, will show how market participants traded before (March 1, 2021 to May 18, 2021) and during

the May 2021 Depeg (May 23, 2021 to May 31, 2021). Specifically, the data sought will show what types of orders were placed, at what prices, for what quantities, how the orders placed impacted the price of UST against other tokens on KuCoin, whether order placement strategies changed before and during the May 2021 Depeg, whether market participants were placing sell orders during the May 2021 Depeg and when did the order activity start, and whether the trading activity during the May 2021 Depeg was driven by one or a small number of market participants. Further, the request for communications will show the communications that discussed market participants' trading strategies leading up to and during the May 2021 Depeg.

**Request for Production No. 2:** The materials sought in Request for Production No. 2 seeks information relevant to the SEC's allegation that Jump played an instrumental role in restoring UST's peg during the May 2021 Depeg. The SEC's expert, Dr. Bruce Mizrach, has opined that as a result of purchases by Jump, UST's price began to rise and was restored to \$1.00, and the price would not have been restored but for Jump's market activity. Trading data received from Jump reflects that Jump traded UST on KuCoin during the May 2021 Depeg. The request for communications and documents sufficient to identify the wallets and accounts owned, operated, custodied, controlled, or affiliated with Jump, Jump Crypto, or Tai Mo Shan or any affiliate thereof within the materials produced in response to Request No. 1 will assist in determining how Jump and its known affiliates traded during the May 2021 Depeg and whether they were actually instrumental in helping to restore UST's price to \$1.

**Request for Production No. 3:** The materials sought in Request for Production No. 3 seek relevant information that will show the proportion of overall trading in UST and other tokens on the Terraform blockchain during the May 2022 Depeg by demonstrating how market participants traded on KuCoin—the largest trading venue for UST during the May 2022 Depeg. Immediately preceding the May 2022 Depeg, on May 7, 2022, market participants were withdrawing UST from the Terra ecosystem, and moving it to DEXs and CEXs. In particular, as reflected in Figure 3 below, commercially available data showing trading on KuCoin reflects that trading volume of UST on KuCoin increased significantly during the May 2022 Depeg in comparison to the period prior to the May 2022 Depeg.



*Figure 3.*

With respect to Request for Production No. 3, the inclusion of communications and documents regarding the trading data, order submission data, and trading history of Terra-Native Tokens by all wallets and accounts between March 1, 2022 and May 30, 2022, will show how market participants traded before (March 1, 2022 to May 1, 2022) and during the May 2022 Depeg (May 2, 2022 to May 31, 2022). Specifically, the data sought will show what types of orders were placed, at what prices, for what quantities, how the orders placed impacted the price of UST against other tokens on KuCoin, whether order placement strategies changed before and during the May 2022 Depeg, whether market participants were placing sell orders during the May 2022 Depeg and when did the order activity start, and whether the trading activity during the May 2022 Depeg was driven by one or a small number of market participants. Further, the request for communications will show the communications that discussed market participants' trading strategies leading up to and during the May 2022 Depeg.

**Request for Production No. 4:** The materials sought in Request for Production No. 4 seek information relevant to the SEC's allegation that the peg was unable to be restored during the May 2022 Depeg because there was no intervention similar to Jump's intervention in the May 2021 Depeg. Trading data received from Jump reflects that Jump traded UST on KuCoin during the May 2022 Depeg. The request for communications and documents sufficient to identify the wallets and accounts owned, operated, custodied, controlled, or affiliated with Jump, Jump Crypto, or Tai Mo Shan or any affiliate thereof within the materials produced in response to Request No. 3 will assist in determining how Jump and its known affiliates traded during the May 2022 Depeg.

## II. Requests for Costs

In response to the request for costs detailed in paragraph 11 of your correspondence, Defendants submit the requested payment of S\$3,320 via the attached cashier's check made out to the "Attorney-General's Chambers."

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Respectfully submitted,

/s/ David L. Kornblau

David L. Kornblau

*Counsel for Defendants*

Enclosures

cc:

Attn: Darshini Ramiah  
State Counsel  
The Honourable the Attorney General  
Attorney-General's Chambers  
1 Upper Pickering Street  
Singapore 058288  
REF: AG/CIV/DM/SUPC/2023/9