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April 15, 2024

Mr. Brian T. Moynihan
Chairman of the Board and CEO
Bank of America Corp.
100 N Tryon St.
Charlotte, NC 28255

Dear Mr. Moynihan,

It is nearly impossible to function today as an individual, family, or organization without a bank account, a credit card, and the ability to obtain a loan. Federal and state governments recognize the necessity of these kinds of financial services, which is why they have passed numerous laws to prohibit various types of discrimination in the past. It is also why national banks like yours receive bailouts and many other privileges, courtesy of the American taxpayers.

Unfortunately, Bank of America appears to be conditioning access to its services on customers having the bank's preferred religious or political views. This is inconsistent with your bank's promise to uphold "the highest standards of corporate governance and ethical conduct[, including] efforts to always do business the right way for [its] customers."¹ Surely Bank of America would not say that denying service to clients for exercising their civil liberties is doing "business the right way for [its] customers."

Your discriminatory behavior is a serious threat to free speech and religious freedom, is potentially illegal, and is causing political and regulatory backlash. Your bank needs to be transparent with and assure us, its shareholders, and others that it will not continue to de-bank customers for their speech or religious exercise.

A. Bank of America has consistently discriminated against groups for political or religious reasons.

1. Bank of America has a history of politicizing its services.

In the past, Bank of America has denied services to gun manufacturers, distributors, and

¹ [Letter from Brian T. Moynihan](#), Chair of the Board and Chief Executive Officer, Bank of America Corporation to the public (copyright 2024) (on file with Bank of America website; last visited February 21, 2024).

sellers;² fossil-fuel producers;³ contractors for U.S. Immigration and Customs Enforcement;⁴ and private prisons and related services.⁵

It recently made headlines for cooperating with the FBI and U.S. Treasury to profile conservative and religious Americans as potential domestic terrorists. Those agencies outrageously used innocuous information—such as whether someone shopped at outdoor stores, supported Trump, purchased religious texts, had conservative views on COVID-19 or immigration, or associated with groups like Alliance Defending Freedom, Family Research Council, and the Ruth Institute, which champion mainstream views on free speech, religious freedom, and life—to tar ordinary Americans as potential domestic terrorists.⁶ And Bank of America willingly participated in this financial surveillance: a recent House of Representatives committee report singled out Bank of America for voluntarily sharing such confidential customer information without a warrant and without notifying its customers.⁷

We are deeply concerned that Bank of America is willing to cooperate in the infringement of its customers' constitutional and privacy rights to help federal law enforcement surveil and target millions of conservative Americans, many of whom live in our states.

2. Bank of America has a pattern of viewpoint-based debanking.

Bank of America has also canceled the accounts of multiple religious groups with mainstream views in the last three years. It is no exaggeration to say that Bank of America is responsible for some of the worst-known instances of debanking.

In 2020, Bank of America sent a letter to Timothy Two Project International informing the Christian ministry that it was canceling its account because Timothy Two was “operating a business type we have chosen not to service.” The ministry trains pastors in some of the most impoverished areas of the world, and had held a Bank of America account since 2011.⁸

In April 2023, Bank of America canceled the accounts of Memphis-based Christian charity, Indigenous Advance. In operation since 2015, Indigenous Advance collaborates with Ugandan ministries to provide basic necessities for orphaned and vulnerable children, support families,

² Kiara Alfonseca, [Bank of America stops financing for makers of 'military style' rifles](#), NBC News (April 11, 2018).

³ Hiroko Tabuchi, [Bank of America Pledged to Stop Financing Coal. Now It's Backtracking](#), The New York Times (Updated Feb. 5, 2024).

⁴ Neil Haggerty, [Senate Republicans target banks refusing services to ICE contractors](#), American Banker (February 14, 2020).

⁵ Imani Moise, [Bank of America to stop financing operators of private prisons, detention centers](#), Reuters (June 26, 2019).

⁶ Comm. On the Judiciary and Select Subcomm. On the Weaponization of the Federal Gov't, 118th Cong., [Financial Surveillance in the United States: How Federal Law Enforcement Commandeered Financial Institutions to Spy on Americans](#), Interim Staff Report at 2, 16, 31-33 (Mar. 6, 2024).

⁷ *Id.* at 5-6.

⁸ Steve Curtis, [Why is Bank of America canceling the accounts of religious organizations?](#), Washington Examiner (November 12, 2023).

and provide vital vocational skills training and mentorship to college students and young adults. But Bank of America sent letters stating the ministry was “operating in a business type we have chosen not to service” and that its credit account “no longer aligns with the bank’s risk tolerance.” A representative of Indigenous Advance repeatedly asked Bank of America employees for a specific reason why its account had been closed, but the employees gave them the cold shoulder. All the employees would do is read from the previously sent notices. Bank of America also went so far as to cancel the account of a Memphis church, Servants of Christ, that occasionally donated to Indigenous Advance. The bank said that the church, like Indigenous Advance, was the wrong “business type” and refused to explain any further.⁹ Not until Bank of America was confronted by the international news outlet Daily Mail did the bank give anything approaching a coherent reason for these actions. Yet the bank’s alleged reasons collapse under even light scrutiny. Bank of America claimed that it closed the accounts because they engaged in “debt collection” and operated internationally.¹⁰ But neither Indigenous Advance Ministries nor the church collect debts, and the church operates entirely domestically. Bank of America’s explanations don’t add up.

The Indigenous Advance incidents are especially troubling because they came on the heels of a high-profile instance of debanking by Chase Bank that generated a front-page story on the Wall Street Journal and letters from nineteen state attorneys general (including most of the undersigned) and fourteen state financial officers.¹¹ In 2022, JPMorgan Chase debanked the National Committee for Religious Freedom (NCRF), a Kansas-based nonprofit founded by former Governor, U.S. Senator, and Ambassador for Religious Freedom Sam Brownback. After repeated requests to reinstate the account, Chase informed NCRF that it would only consider doing so if the non-profit agreed to disclose confidential donor information and more.¹² Over the course of the next year, and as public pressure mounted, Chase offered no fewer than five contradictory explanations for why it canceled the account—including a false claim from CEO Jamie Dimon at the annual shareholder meeting that NCRF’s representatives had simply failed to “fill out all the forms.”¹³

B. De-banking exposes Bank of America to numerous legal and regulatory risks.

Bank of America is exposing itself to numerous legal risks by engaging in de-banking. It is opening itself up to potential legal liability under consumer protection and antidiscrimination laws, and creating substantial regulatory and political risk from states that are already taking action to stop debanking.

⁹ Jamie Joseph, [*Christian nonprofit claims it was 'debanked' by Bank of America over its religious views*](#), Fox News (August 25, 2023).

¹⁰ Helena Kelly, [*“Debanking” Row Breaks Out After Bank of America Shuts Down Account for Ultra-Conservative Christian Charity that Serves Impoverished Ugandans*](#), Daily Mail (updated Aug. 25, 2023).

¹¹ Jathon Sapsford, [*JPMorgan Targeted by Republican States Over Accusations of Religious Bias*](#), The Wall Street Journal (Updated May 13, 2023).

¹² Sam Brownback and Jeremy Tedesco, [*Stop the Troubling Trend of Politically Motivated Debanking*](#), Newsweek (updated Mar. 17, 2023).

¹³ Viewpoint Diversity Score, [*Instances of Viewpoint-Based De-banking*](#).

1. Many laws already prohibit Bank of America from debanking its customers.

Two important federal laws in this area are the Equal Credit Opportunity Act¹⁴ and the Fair Housing Act,¹⁵ which bar religious discrimination for credit applications and home loans, respectively. Many states also have fair-lending and public-accommodation laws that apply to financial institutions. Some states have passed laws prohibiting social credit scoring or certain types of political discrimination in financial services.¹⁶ These laws and others expose Bank of America to significant legal liability if it discriminates against its customers based on their political or religious views, especially for religious views.

Further, federal and state consumer-protection laws protect customers from deceptive acts and practices by banks like yours. To the extent Bank of America is holding itself out as open for all but debanking its customers on political or religious grounds, it may be violating those laws.

2. Debanking creates substantial regulatory and political risk.

Investigations and scrutiny of questionable debanking practices are on the rise. Your own bank's decision to close the account of Indigenous Advance prompted a legal complaint filed with the Tennessee Attorney General's office. Chase's decision to close the account of Sam Brownback's organization prompted letters from attorneys general and state treasurers mentioned above. Similarly, twenty-three state attorneys general (again including many of the undersigned) and eighteen state treasurers and auditors wrote to proxy advisors ISS and Glass Lewis on this exact issue just a few months ago.¹⁷

Regulatory backlash is another significant concern. In 2021 the Office of the Comptroller of the Currency introduced the Fair Access Rule that addressed banks using "subjective or category-based evaluations to deny certain persons access to financial services."¹⁸ Similar legislation is in Congress as well.¹⁹

Numerous states are also considering or have passed legislation. Eight states are currently considering laws that would outlaw "social credit scoring."²⁰ Fifteen states have passed bills removing state business from financial institutions and other actors that boycott fossil fuels or

¹⁴ Equal Credit Opportunity Act, 15 U.S.C. §§ 1691–91f.

¹⁵ Fair Housing Act, 42 U.S.C. §§ 3605–06.

¹⁶ Fla. Stat. §§ 516.037, 560.1115, 655.0323; Ga. Stat. § 10-1-439.1; Tex. Ins. Code § 565.005; Wyo. Stat. § 13-10-302.

¹⁷ See, e.g., Jamie Joseph, [Republican attorneys general from 23 states demand major firms stop supporting 'debanking' of conservatives](#), Fox News (December 9, 2023); Zachary Halaschak, [GOP state officials pressure proxy advisory companies in 'fight' against ESG](#), Washington Examiner (October 24, 2023).

¹⁸ Bryan Hubbard, [OCC Finalizes Rule Requiring Large Banks to Provide Fair Access to Bank Services, Capital, and Credit](#), Office of the Comptroller of the Currency (January 14, 2021).

¹⁹ S. 293, 118th Congress (2023–24).

²⁰ Ariz. S.B. 1167; Ga. H.B. 1205; Idaho H. 669; Ind. S.B. 0028; Iowa H.F. 2409; Ky. H.B. 452; S.D. H.B. 1247; Tenn. H.B. 2100.

guns, prohibiting state fund managers from considering ESG criteria, or both.²¹ To stem the tide of further investigation, regulation, or legislation that might increase compliance costs or result in other burdens, banks need to show good faith to address politicized debanking.

C. Bank of America’s customer-facing policies create a systemic risk of discriminatory debanking.

Financial institutions set the stage for politicized de-banking by adopting vague and subjective “reputational risk” policies and prohibitions on “hate” that are susceptible to abuse. According to the 2023 Viewpoint Diversity Score Business Index,²² which measures corporate respect for free speech and religious liberty, nearly half of the largest finance companies include these kinds of problematic terms. Even worse, seven of the top ten largest banks and each of the top three banks, including Bank of America, have these policies. These policies’ overly broad and subjective language permit employees to discriminate based on a customer’s viewpoint, instead of sound financial factors, and then hide their discrimination behind those opaque standards.

Unsurprisingly, Bank of America also has a corporate culture that discourages viewpoint diversity and chills certain political and religious speech. The 2023 Viewpoint Diversity Score Business Index gave Bank of America a score of only 8% for how it protects free speech and religious liberty throughout all aspects of its business.²³ For example, Bank of America can also deny online banking access to anyone who—in its subjective determination—promotes “intolerance” or “hate.”²⁴ It excludes religious charities from its charitable giving and employee charitable match programs.²⁵ And Bank of America is indoctrinating its employees with a divisive “racial reeducation program” that encourages employees to be “woke at work,” instructing white employees in particular to “decolonize [their] mind” and “cede power to people of color.”²⁶

These examples, and the debanking stories above, strongly suggest that Bank of America is not just occasionally canceling groups under questionable circumstances. Instead it appears to be systematically punishing religious and political views with which it disagrees.

D. Bank of America needs to be transparent with us, its shareholders, and its customers about debanking.

As attorneys general of our respective states, we take great interest in protecting a culture of free speech within our borders. You are the second-largest bank in the country and have nearly 15% of all domestic deposits.²⁷ You appear to be using this power to punish conservative and religious customers by handing their data over to federal law enforcement and even

²¹ Vandana Gobar, [Anti-ESG Crusade in US Sweeps 15 States With More Laws in Works](#), BloombergNEF (June 9, 2023).

²² [Viewpoint Diversity Score Business Index](#) (2023).

²³ Viewpoint Diversity Score, [Bank of America](#).

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ Adam McCann, [Bank Market Share by Deposits and Assets](#), Wallethub (Feb. 26, 2024)

cancelling their accounts. This not only undermines free speech and religious freedom, but also is potentially illegal and could lead to investigations, litigation, regulation, and political backlash.

Shareholders have introduced numerous proposals this year aimed at increasing transparency around de-banking. They have filed resolutions at many financial institutions—including yours—because they are concerned about the serious reputational and financial harm from even the appearance of politicized debanking.

Bank of America needs to account for these risks. Within thirty days, please do the following:

1. provide us a written report about your account-cancellation policies and practices, particularly regarding “risk tolerance,” “reputational risk,” “hate,” “intolerance,” and similar terms, and whether Bank of America considers a customer’s speech or religious exercise—or public perception or other groups’ perception of them—as a component of those policies;
2. update your terms of service to state that you do not discriminate against customers for their religious or political views or speech;
3. participate in the Viewpoint Diversity Score’s Business Index; and
4. support shareholder proposals protecting religious and political diversity.


Sincerely,



Kris W. Kobach
Kansas Attorney General



Steve Marshall
Alabama Attorney General



Tim Griffin
Arkansas Attorney General



Raúl Labrador
Idaho Attorney General



Todd Rokita
Indiana Attorney General



Brenna Bird
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Lynn Fitch
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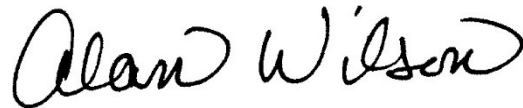
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